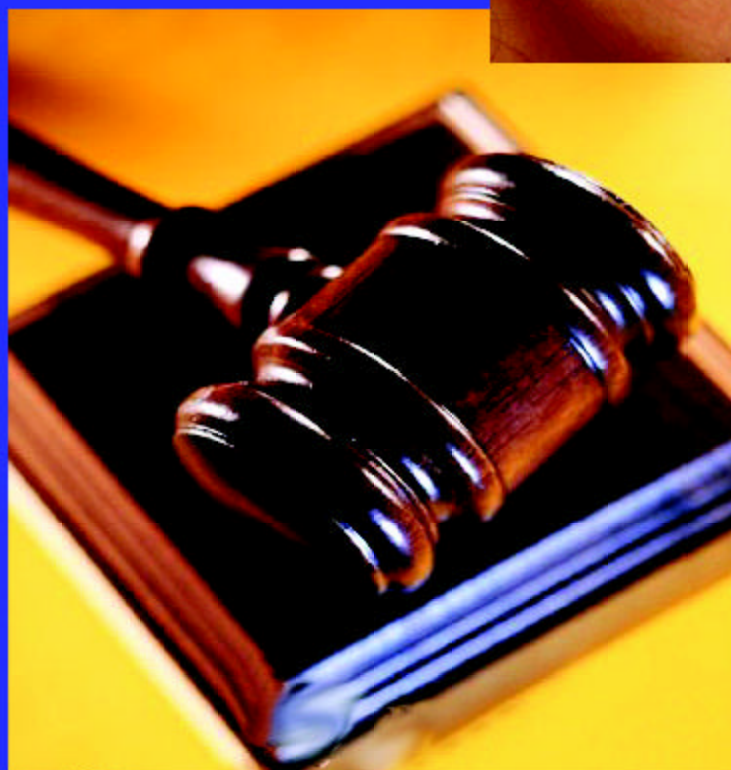


Kentucky

*Department of
Workers' Claims*



*Annual Report
Fiscal Year
2001-2002*



Department of Workers' Claims

**Commonwealth of Kentucky
Department of Workers' Claims**

Prevention Park
657 To Be Announced Avenue
Frankfort, KY 40601
Telephone 502-564-5550
Fax 502-564-8250

Website <http://labor.ky.gov/dwc>

COMMISSIONER
Larry M. Greathouse

WORKERS' COMPENSATION BOARD

Dwight Lovan, Chairman
(270) 687-7339

Jonathan Stanley
John Gardner
(859) 246-2773

ADMINISTRATIVE LAW JUDGES

Sheila C. Lowther
Chief Administrative Law Judge
(502) 564-5550

In addition to the Frankfort office, DWC specialists and ombudsmen may be contacted at the following offices for information and assistance regarding workers' compensation issues:

Toll free 800-554-8601

410 West Chestnut Street, Suite 700
Louisville, KY 40202
Telephone 502-595-4146
Fax 502-595-4146
Toll free 866-874-0006

220-B North Eighth Street
Paducah, KY 42001
Telephone 270-575-7048
Fax 270-575-7025
Toll free 800-554-8603

145 East Center Street
Madisonville, KY 42431
Telephone 270-824-7023
Fax 270-824-7603
Toll free 866-874-0005

131 Summit Drive, Suite 103
Pikeville, KY 41501
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Toll free 800-554-8602



Kentucky Department of Workers' Claims Mission Statement

**Resourceful administration of Kentucky's workers' compensation program
and equitable and expedient processing of claims.**

PERFORMANCE OBJECTIVES

- T**o assure prompt delivery of statutory benefits, including medical services and indemnity payments
- T**o provide timely and competent services to stakeholders
- T**o foster stakeholder knowledge of rights and responsibilities under the Workers' Compensation Act
- T**o encourage stakeholder involvement in the development of policy and delivery mechanisms
- T**o provide the public and policy makers with accurate and current indicators of program performance
- T**o anticipate changes in the program environment and respond appropriately

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.

PRINTED WITH STATE FUNDS

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.



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December 13, 2002

Dear Governor Patton:

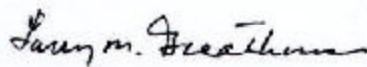
Pursuant to KRS 342.230 and KRS 342.435, I submit the Annual Report of the Department of Workers' Claims for Fiscal Year 2001-2002, which encompasses activities of the Department from July 1, 2001 through June 30, 2002. This Annual Report details steps taken by this agency in our quest to assure prompt delivery of statutory benefits in an efficient manner.

During this Fiscal Year, the Department relocated to a new location at 657 To Be Announced Avenue. Previously the Department occupied two separate sites in Frankfort. This move has allowed all divisions within the agency to be housed under one roof, thereby increasing the efficiency with which we serve our constituents, and reducing overhead costs.

The Department is very fortunate to have on staff a host of dedicated employees. These employees put in many hours to see this project to completion. Without the knowledge and dedication of agency staff, this task would have been considerably more complex.

Utilizing technology and emphasizing the necessity of offering expert services to the entirety of the Commonwealth's workforce, employees of the Department of Workers' Claims have competently fulfilled its' mission during this fiscal year. Thank you for your support and keen interest in the workers' compensation program.

Sincerely,



Larry M. Greathouse

Commissioner, Workers' Claims



*Larry M. Greathouse
Commissioner*

Larry M. Greathouse is an Owensboro native, a 1963 graduate of Berea College and he received his law degree in 1969 from UK's College of Law.

The Commissioner began his tenure with the Department of Workers' Claims in 1988, as a member of the Workers' Compensation Board. He was appointed Chairman of the Board in 1999 and in June of 2000, his third term ended.

Immediately prior to being appointed Commissioner of the Department of Workers' Claims, Mr. Greathouse served as Deputy Secretary of the Justice Cabinet from August of 2000 through March of 2002.



*Thomas 'Tick' Lewis
Deputy Commissioner*

Deputy Commissioner Lewis has 25 years of experience in workers' compensation, safety and human resources.

He joined the Department of Workers' Claims staff from Cook and Sons Mining, where he was Manager of Human Resources and Safety.

Mr. Lewis received his M.A. in Education from Morehead State University in 1973.

Mr. Lewis then began a twenty year career in mining, serving as owner, safety inspector, examiner and as a manager of workers' compensation.

Beginning in 1994, the Deputy Commissioner served as a Kentucky Coal Association Representative to the Health Policy Board, where he worked on preparing the standard benefits plan for the Health Reform Act.

From 1997-2000, Mr. Lewis worked as an arbitrator with the Department of Workers' Claims.

Mr. Lewis is a member of several professional and labor organizations including the United Mine Workers of America and the Kentucky Coal Association.

Department's New Address

In spite of all the confusion surrounding the agency's street address, the Department of Workers' Claims employees have settled into their new working quarters at *657 To Be Announced Avenue*. The building, located in Frankfort's Prevention Park, provides enough work space for the Department's 130 Frankfort based employees.

The move to the new site was the culmination of a year long planning process during which staff members were involved in the selection of a floor plan, office layout, network design and the physical relocation of hardware and equipment. All efforts were made to prevent disruption to the workflow in order to deliver prompt services to the agency's constituents.

An office relocation of this scope is very complex. Multiple considerations must be taken into account. For this reason, it was necessary to assemble a team consisting of personnel from each Division/Branch to assist with formulating a plan for the move. The move plan was formulated with the primary consideration given to the workflow of the Department. All efforts were made to have minimal disruption to the daily workflow in order to deliver prompt services to our constituents.

Months before the actual move, staff members such as those from the Department's Technical Services branch, were involved in the layout of space for network hardware and the installation of network cabling. From diagramming the placement of the hardware necessary and overseeing the wiring contractors, to physically locating and relocating computers and monitors, the Technical Services staff devoted many hours to this project.

"In addition to the planning and the moving, they had to provide ongoing user assistance as well – day to day business had to be maintained throughout the process", said Information Systems Manager Darlene Stevenson. "Technical Services sees quite a few benefits as a result of this move – having one building of network hardware instead of two will prove to be a big time saver. Having all divisions in one building will allow for more timely assistance when staff members need help with network and/or application issues."



The Department of Workers' Claims moved to the Perimeter Park location from the 127 Building in November 1988. The original square footage was 31,820, but by December 1992 the Department had acquired the entire building with the total square footage being 38,977. The Department was at this location 13 years.

The Division of Security and Compliance relocated from the Perimeter Park location to the Peach Building in January 1997. This was necessary due to the creation of the Division of Arbitrators and Workers' Compensation Specialists. The total square footage for this location was approximately 8,700 square feet. The Division of Security and Compliance was at this location 5+ years.

The square footage of the new office building is 49,322. This represents an increase of approximately 1,645 square feet over the combined total for both the Perimeter Park and Peach Building locations, which provides comfortable working space for the Department's 134 employees.

The Department is very fortunate to have on staff a host of dedicated employees. These employees put in many hours to see this project to completion. Without the knowledge and dedication of these employees, this task would have been considerably more complex.



***Kentucky Department of Workers' Claims
Prevention Park
657 To Be Announced Avenue
Frankfort, Kentucky 40601***



year) or \$54,089.28 (for injuries occurring during the 2002 calendar year) is made to the employee's estate. Income benefits are also extended to the surviving spouse and dependents.

The Department of Workers' Claims (DWC) within the Labor Cabinet administers Kentucky's workers' compensation program. The Commissioner is appointed by the Governor and is empowered to adopt regulations that implement the law, such as those that guide the adjudication of claims and the delivery of medical and rehabilitation benefits.

Kentucky's Workers' Compensation Program

The General Assembly establishes rights and duties regarding workers' compensation through statutes found in the Kentucky Revised Statutes, Chapter 342—the Workers' Compensation Act.

Kentucky's Workers' Compensation Act provides benefits to employees injured in job-related accidents and to those who contract or develop diseases due to workplace exposure. In exchange for the protection that workers' compensation grants, employees surrender the right to sue employers in civil court for damages arising from workplace injuries.

Benefits include monetary payments for lost income, the expense of medical treatment and vocational rehabilitation training for new job skills. If an employee's death occurs as a result of the injury, a lump-sum payment of \$52,066.50 (for injuries occurring during the 2001 calendar

DWC functions include the following:

- Provide information concerning benefits
- Maintain injury records and program costs
- Process and adjudicate claims
- Enforce laws requiring employer coverage
- Regulate self-insured employers
- Implement strategies to improve carrier performance
- Render program assessment to policy makers

Workers' Compensation Insurance Coverage

Most Kentucky employers are subject to the Workers' Compensation Act and must carry workers' compensation insurance either through purchase of a policy from an insurance carrier, by becoming self-insured or by joining a self-insurance group. The law imposes penalties on employers who fail to obtain coverage. Noncomplying businesses may be closed by court action.

Some employees are exempt from mandatory workers' compensation coverage. Farm workers and workers who are employed as domestic servants or employed by homeowners for residential maintenance and repair, members of certain religious sects and employees protected by federal laws are some of those exemptions. Those who voluntarily execute a waiver of workers' compensation protection are exempt from coverage; business partners who are owners of the business are not required to obtain coverage on themselves.

Whether a worker is an employee or an independent contractor is a frequently disputed issue in workers' compensation claims. The general test to determine this distinction usually is found in the following question: *Does the worker have the right to control the details of the work?*

Employee leasing corporations must register with the Department of Workers' Claims and demonstrate that workers' compensation coverage has been secured for job sites where leased employees work. Temporary help service companies are deemed the employers

of temporary employees and must secure workers' compensation insurance coverage.

Employees may reject coverage under the Workers' Compensation Act by signing and filing the Employee's Notice of Rejection of Workers' Compensation Act, commonly known as a Form 4 Waiver. By rejecting the Act, employees surrender benefits that may otherwise be due under the Workers' Compensation Act, but retain the right to sue employers for work-related injury or disease in civil court.



The law prohibits employers from requiring employees to sign a Form 4 Waiver as a condition of employment. Only waivers signed freely by the employee will be upheld.

Resolution Of Disputes

When an employee is injured on the job, the employee notifies his/her employer of the injury as soon as possible. The employer, in turn, notifies its insurance carrier if the employer is not self-insured. This notification process alerts the employer and/or insurance carrier of its potential liability and the need to begin payments to the employee. Payment of medical benefits as well as income benefits frequently begin at this time. So long as these benefits continue to be paid voluntarily, there may be no dispute or need for an employee to file a workers' compensation claim. In many instances, the injured worker and the employer

or whether medical expenses are reasonable or necessary. The employee may also feel entitled to a larger award than the employer thinks is justified. Where there is a disagreement, either party may contact the Department of Workers' Claims ombudsmen or workers' compensation specialists for intervention.

The primary mission of the DWC is to expeditiously resolve disputes as to entitlement to workers' compensation benefits. A toll free number **(1-800-554-8601)** is available to all parties for information and assistance in

resolving these matters. Staff members contact the parties involved, help with the exchange of information or medical documents and also engage all parties in discussions aimed at resolving the disagreement.

If the differences cannot be resolved either with the assistance of DWC staff or by the parties, litigation may ensue. In filing a claim, many workers retain an attorney familiar with workers' compensation law to handle the complexities of the adjudication process.



reach an agreement which is formalized and approved by one of the administrative law judges at the department.

In other instances, there may be a disagreement by either party on the amount of or entitlement to benefits. The employer may contest payments of these benefits, challenging whether the employee's condition is due to a work injury, challenging the extent of disability,

An employee is not required to have an attorney to file a claim. However, employees choosing to represent themselves will be held to the same standards as members of the bar. For those workers who obtain an attorney, fees for representation are assessed on a contingency basis and recovery of benefits is required before fees are payable.

Attorney Fees Awarded During FY 2001- 02

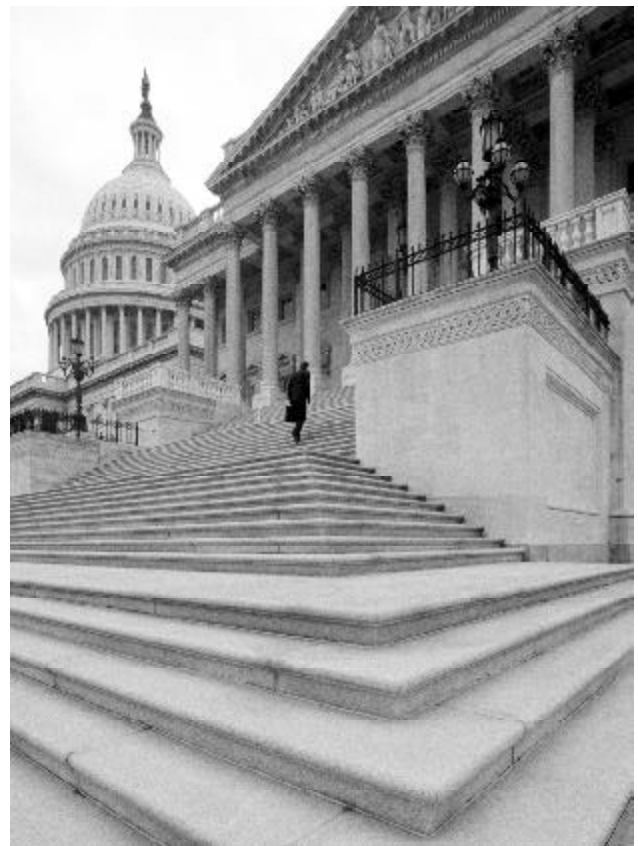
	Number of Fees Approved	Total Fees Awarded	Average Fee
Plaintiff	5,647	\$22,832,746	\$4,045
Defense	4,433	\$13,084,290	\$2,952

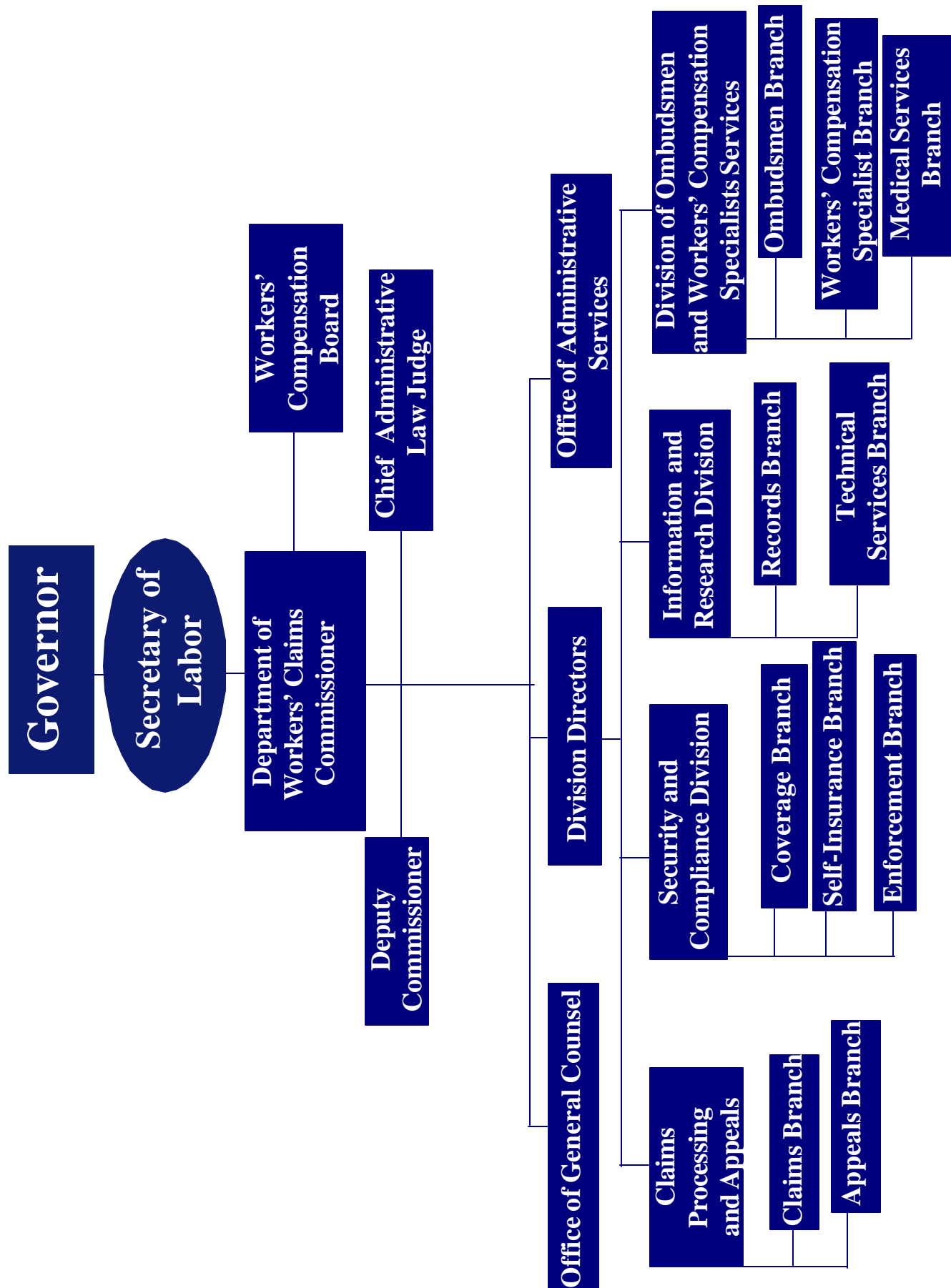
The Department of Workers' Claims processes a variety of injury and occupational disease claims. To simplify the administrative procedure, several types of claim application forms are used; Form 101 for injuries, Form 102 for occupational diseases and Form 103 for hearing loss claims. These claim application forms contain basic information identifying the worker, employer and the nature of the incident producing the injury/disease and must be thoroughly completed, typed, notarized, and filed with supporting medical documentation with the Department. Additional forms must also be completed and filed with the claim application: Form 104, Plaintiff's Employment History; Form 105, Plaintiff's Chronological Medical History; and Form 106, Medical Waiver and Consent. In occupational disease claims, the Form 115, Social Security Release Form is also required. All of these forms are available by telephoning the Department of Workers' Claims or can be downloaded from the agency's website:

<http://labor.ky.gov/dwc>

Once a claim is filed, it is assigned to one of the 16 Administrative Law Judges. The judge has the responsibility for overseeing all aspects of the claim including the introduction of evidence and ruling on all pleadings. If the claim is not settled, the judge will render a written decision on all uncontested issues.

To assist in understanding how the administrative judicial process works, an Adjudication Timeline contained within this report (pages 55-56) outlines the steps involved.





PROGRAM



STATISTICS

First Reports Of Injury

Kentucky Revised Statute 342.038 mandates that employers keep a record of all workplace injuries received by employees. Employers must file a First Report of Injury with the Department of Workers' Claims when more than one day of lost work occurs. This report must be filed within one week after learning of the injury. Kentucky employers who fail to comply with this requirement are subject to the penalty provisions of KRS 342.990.

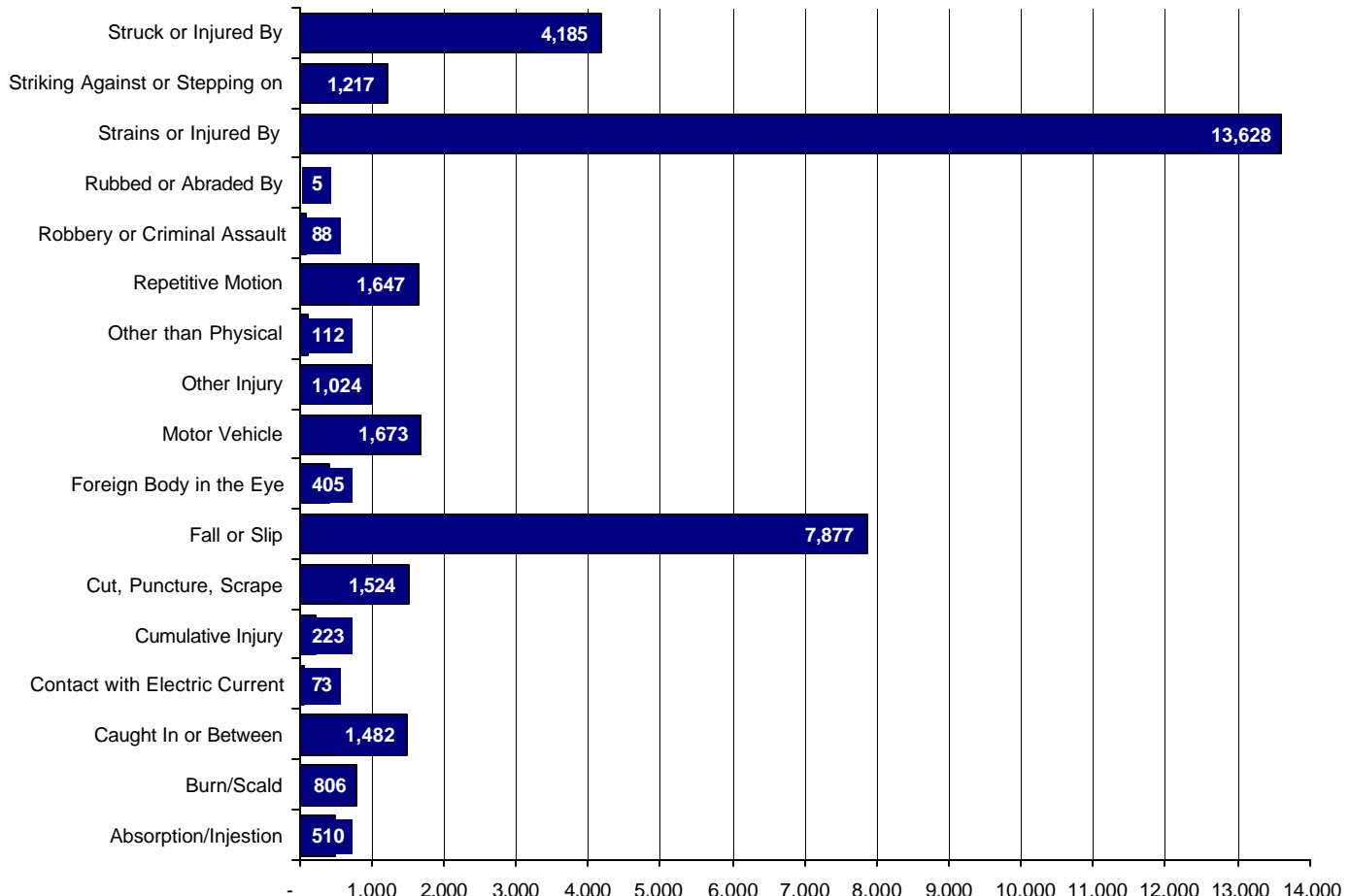
In fiscal year 2001-2002, there were 36,479 lost time First Reports of Injury filed with the Department (meaning that these injured workers missed more than one day of work). While the

number of lost time injuries has declined in recent years, this is the lowest number of injuries reported to DWC in the past decade.

The most common work-related injury in FY 2001-02 was caused by strain (13,628). Falls/slips/trips followed as the second most common cause with (7,877).

Review of the nature of injuries revealed that strains (14,840) and sprains (2,826) accounted for nearly half of all reported injuries. Contusions/bruises were reported in 3,854 injuries; there were 2,544 fractures and 2,263 lacerations reported.

Distribution of Lost Time Injuries by Cause of Injury



Distribution Of Lost Time Injuries By Type

Hearing Loss	119
Coal Workers' Pneumoconiosis	87
Occupational Disease	1,295
Injury	34,987

The lower back was the most common body part injured (7,615), followed by multiple body parts including systems (4,537). 3,100 workers reported injuries to the knee.

During this fiscal year, the services industry reported the most injuries (9,044); followed closely by manufacturing (8,977) injuries. The remainder of the classifications reported as follows: retail trade (5,347), construction (3,662), transportation/communication/public utilities (2,835), mining (1,987), public administration (1,979), wholesale trade (1,354), agriculture/forestry/fishing (531), finance/insurance/real estate (442) and unclassified (320).

23,372 first reports involved men; women filed 13,107 reports. Men filed more reports than women in all sectors except the service and retail trade classifications.

The average age of injured employees was 38. The average age of males was 37, average age for women was 39.



Workers' Compensation Claims

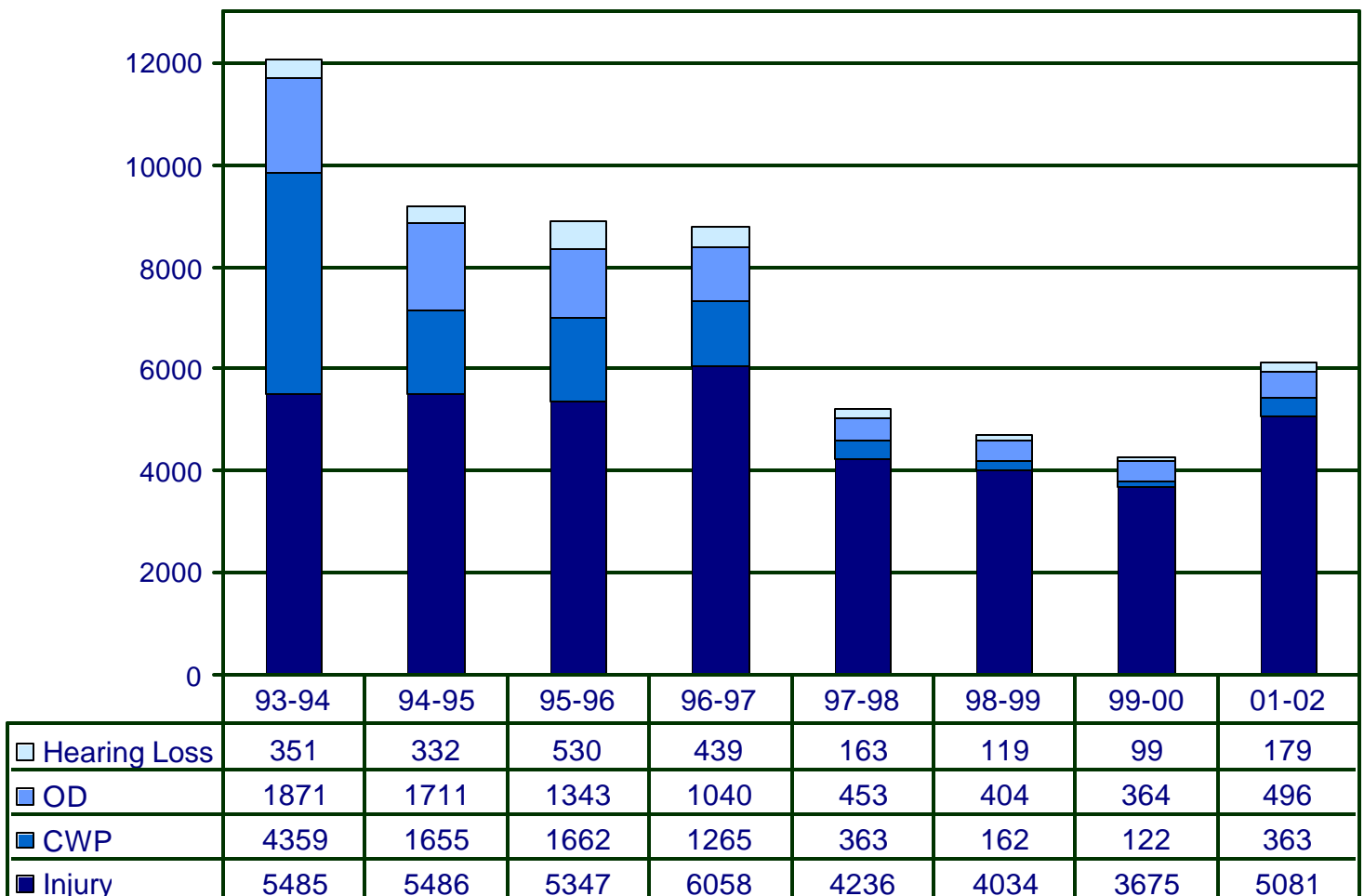
A workers' compensation claim in Kentucky originates when: 1) A settlement document is filed to voluntarily resolve workers' compensation issues between parties prior to a claim application being filed; or 2) a claim application is filed because the parties are not in agreement and the matter must be resolved by an Administrative Law Judge.

Workers' compensation claims are typically divided into two types, *indemnity* and *medical-only*, a distinction that is used in this report. Indemnity claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to income payments.

Most of the data in this report pertains to indemnity claims. Presently, there is no statutory requirement that employers or their insurance carriers report medical-only injuries to DWC.

For an injury to be compensable, it must be related to the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those in which medical services are delivered but the employee does not qualify for income payments.

Claims Filed by Fiscal Year



Distribution of Claims by Body Part Top Ten

Lower Back
Multiple Body Parts Including Systems
Knee
Shoulder
Wrist
Disc
Multiple Upper Extremities
Hand
Ear
Soft Tissue Neck



totaled 477 while 417 claims involved repetitive motion injuries.

The average age of claimants was 41 years. 37% (1,955) of claims were filed by women and 63% (3,362) were filed by men.

In FY 2001-02 there were 5,317 applications for resolution of claims filed with the Department of Workers' Claims.

In reviewing the litigated injury claims, DWC found that strain was the most common cause of injury, a total of 2,253. A fall or slip (1,112) was the second most common cause of injury. Injuries caused by being struck by an object

Men filed the majority of claims in all standard industrial classification categories except retail trade, finance/insurance/real estate and services.

Workers employed in the manufacturing industry filed the greatest number of claims (1,386), followed by services (1,105) and mining (684).

Examination of the claims revealed that the most common nature of injury was strain (2,241). 379 claimants reported contusions and 367 reported fractures.

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Adair	7,907	117	1.48%	8	6.84%
Allen	8,850	113	1.28%	16	14.16%
Anderson	10,184	171	1.68%	22	12.87%
Ballard	4,247	80	1.88%	6	7.50%
Barren	18,242	323	1.77%	23	7.12%
Bath	6,156	110	1.79%	17	15.45%
Bell	10,324	283	2.74%	74	26.15%
Boone	46,487	630	1.36%	57	9.05%
Bourbon	10,130	227	2.24%	22	9.69%
Boyd	22,026	413	1.88%	89	21.55%
Boyle	15,288	232	1.52%	28	12.07%
Bracken	3,839	63	1.64%	10	15.87%
Breathitt	4,210	116	2.76%	18	15.52%
Breckinridge	7,886	132	1.67%	15	11.36%
Bullitt	34,293	514	1.50%	62	12.06%
Butler	6,012	121	2.01%	9	7.44%
Caldwell	6,381	115	1.80%	14	12.17%
Calloway	17,736	245	1.38%	37	15.10%
Campbell	45,825	414	0.90%	43	10.39%
Carlisle	2,740	28	1.02%	2	7.14%
Carroll	5,579	129	2.31%	12	9.30%
Carter	12,123	194	1.60%	24	12.37%
Casey	6,728	150	2.23%	19	12.67%
Christian	29,534	414	1.40%	43	10.39%
Clark	16,898	344	2.04%	42	12.21%
Clay	7,503	208	2.77%	63	30.29%
Clinton	6,397	68	1.06%	4	5.88%
Crittenden	4,109	79	1.92%	16	20.25%
Cumberland	2,963	67	2.26%	5	7.46%
Daviess	49,525	746	1.51%	63	8.45%
Edmonson	5,103	88	1.72%	7	7.95%
Elliott	2,698	23	0.85%	2	8.70%
Estill	5,803	140	2.41%	22	15.71%
Fayette	144,218	1855	1.29%	247	13.32%
Fleming	6,356	124	1.95%	14	11.29%
Floyd	13,195	533	4.04%	179	33.58%
Franklin	24,708	398	1.61%	44	11.06%
Fulton	3,408	32	0.94%	5	15.63%
Gallatin	3,787	73	1.93%	9	12.33%
Garrard	7,906	156	1.97%	21	13.46%
Grant	10,432	275	2.64%	31	11.27%
Graves	17,644	263	1.49%	26	9.89%
Grayson	13,035	239	1.83%	34	14.23%
Green	4,365	93	2.13%	8	8.60%
Greenup	16,211	219	1.35%	42	19.18%
Hancock	4,100	56	1.37%	4	7.14%
Hardin	37,654	652	1.73%	68	10.43%

A Comparison by County
Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Harlan	8,777	451	5.14%	132	29.27%
Harrison	7,531	181	2.40%	25	13.81%
Hart	7,752	175	2.26%	19	10.86%
Henderson	24,032	333	1.39%	24	7.21%
Henry	7,312	208	2.84%	26	12.50%
Hickman	2,469	21	0.85%	4	19.05%
Hopkins	19,016	531	2.79%	64	12.05%
Jackson	7,105	113	1.59%	29	25.66%
Jefferson	378,510	6002	1.59%	878	14.63%
Jessamine	21,100	374	1.77%	42	11.23%
Johnson	9,136	231	2.53%	74	32.03%
Kenton	80,409	902	1.12%	127	14.08%
Knott	5,645	164	2.91%	56	34.15%
Knox	11,572	246	2.13%	31	12.60%
Larue	6,394	108	1.69%	9	8.33%
Laurel	23,969	433	1.81%	99	22.86%
Lawrence	5,319	114	2.14%	39	34.21%
Lee	2,530	73	2.89%	13	17.81%
Leslie	4,309	184	4.27%	49	26.63%
Letcher	7,844	322	4.11%	70	21.74%
Lewis	4,235	80	1.89%	7	8.75%
Lincoln	11,714	224	1.91%	24	10.71%
Livingston	4,958	103	2.08%	15	14.56%
Logan	13,265	197	1.49%	19	9.64%
Lyon	3,331	47	1.41%	7	14.89%
McCracken	33,488	410	1.22%	103	25.12%
McCreary	6,898	133	1.93%	27	20.30%
McLean	4,306	86	2.00%	18	20.93%
Madison	36,782	690	1.88%	39	5.65%
Magoffin	5,043	97	1.92%	55	56.70%
Marion	11,084	185	1.67%	13	7.03%
Marshall	14,790	237	1.60%	83	35.02%
Martin	3,252	144	4.43%	19	13.19%
Mason	8,342	105	1.26%	12	11.43%
Meade	11,212	141	1.26%	23	16.31%
Menifee	3,064	73	2.38%	12	16.44%
Mercer	10,962	229	2.09%	28	12.23%
Metcalfe	4,714	81	1.72%	9	11.11%
Monroe	4,703	95	2.02%	13	13.68%
Montgomery	13,428	252	1.88%	28	11.11%
Morgan	5,294	73	1.38%	19	26.03%
Muhlenberg	12,638	279	2.21%	28	10.04%
Nelson	19,518	433	2.22%	79	18.24%
Nicholas	2,487	74	2.98%	8	10.81%
Ohio	9,647	217	2.25%	21	9.68%
Oldham	25,209	259	1.03%	30	11.58%
Owen	4,239	63	1.49%	16	25.40%
Owsley	1,793	45	2.51%	8	17.78%
Pendleton	6,751	126	1.87%	11	8.73%

A Comparison by County

Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Perry	11,280	386	3.42%	110	28.50%
Pike	26,524	918	3.46%	395	43.03%
Powell	6,516	157	2.41%	37	23.57%
Pulaski	27,679	648	2.34%	74	11.42%
Robertson	1,016	17	1.67%	1	5.88%
Rockcastle	6,330	105	1.66%	21	20.00%
Rowan	10,245	184	1.80%	14	7.61%
Russell	5,975	132	2.21%	14	10.61%
Scott	18,217	378	2.07%	37	9.79%
Shelby	18,519	243	1.31%	32	13.17%
Simpson	8,873	109	1.23%	14	12.84%
Spencer	5,766	120	2.08%	18	15.00%
Taylor	9,596	186	1.94%	31	16.67%
Todd	5,280	79	1.50%	10	12.66%
Trigg	6,290	105	1.67%	19	18.10%
Trimble	3,265	72	2.21%	16	22.22%
Union	5,747	178	3.10%	21	11.80%
Warren	50,566	819	1.62%	97	11.84%
Washington	6,134	86	1.40%	10	11.63%
Wayne	8,433	161	1.91%	17	10.56%
Webster	5,252	155	2.95%	22	14.19%
Whitley	14,791	393	2.66%	45	11.45%
Wolfe	3,040	79	2.60%	10	12.66%
Woodford	13,615	171	1.26%	22	12.87%
Out of State		2189		20	0.91%
Grand Total	1,967,572	36479	1.85%	5317	14.58%

Footnote: Source of employment data Workforce Development Cabinet

Work-Related Fatalities

Initially, there were 102 on the job fatalities reported to the Department of Workers' Claims in fiscal year 2001-2002. After investigation, 52 of these deaths were determined to be work-related; the remainder have been ruled not work-related, not a Kentucky claim, or contain issues which are still in a pending status.

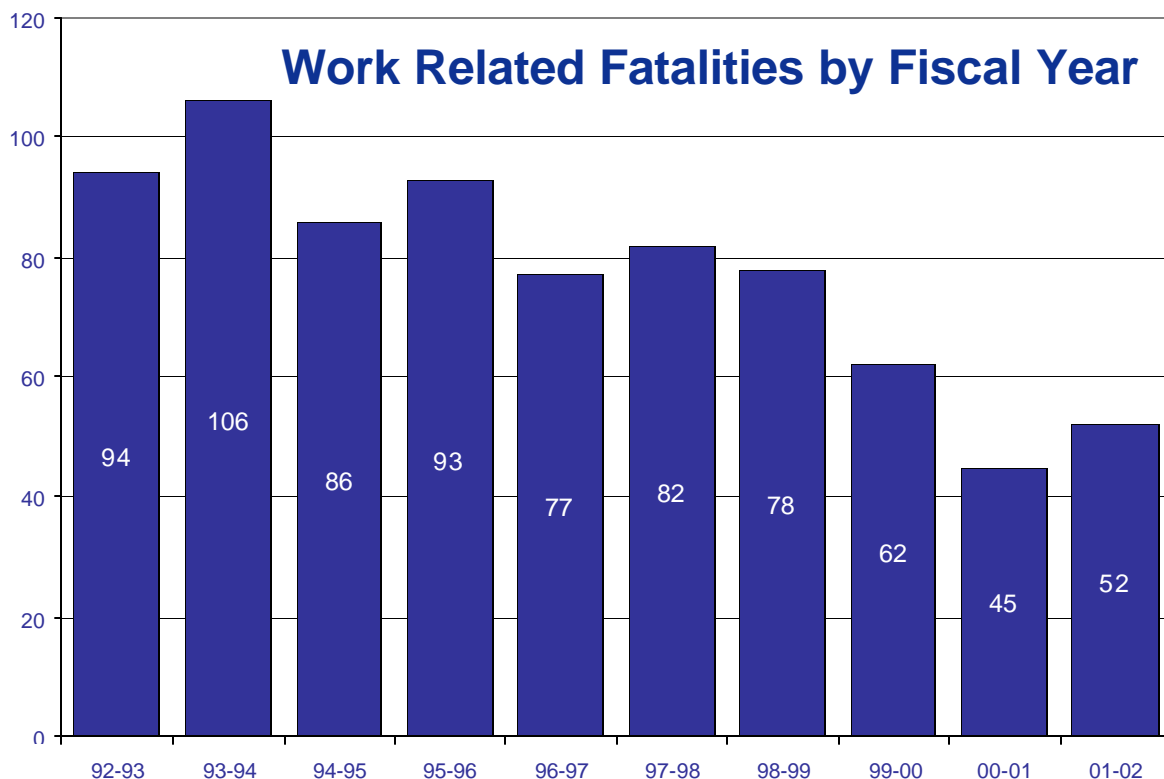
Three 20 year old males comprise the youngest casualties reported this fiscal year. Two of the aforementioned men were killed as a result of falls and the third individual was crushed by a crane. The oldest worker who died on the job was a 71-year old driver in the construction industry who was killed in a motor vehicle accident.

The average age of workers killed on the job was 44 years old. Four of the fatalities were females; a 26-year old emergency medical technician, a 28-year old truck driver, a 35-year old grocery clerk and a 55-year old timber worker.

The most common cause of the injury that led to these deaths was a result of motor vehicle

accidents (14) or workers being struck by machinery or flying/falling parts (13). Eight workers died when they were crushed or caught in or between a machine or the load on the machine. Seven workers were killed as a result of falls. Three fatalities occurred when the workers succumbed to heat extremes or were burned and three fatalities were the result of gun shot wounds. Two workers died of electrocution, one worker died of a heart attack and one worker died after contracting meningitis.

Occupations associated with fatalities reported this period ranged from painters to police officers, boilermakers to coal miners, and EMTs to truck drivers. The construction and manufacturing industries were the most deadly, with the reporting of 13 and 12 fatalities respectively. The transportation/communication/public utilities sector and the mining industry each claimed seven lives. There were six deaths in the services sector, three reported from public administration, two from wholesale trade and one each from agriculture, forestry and fishing and the retail trade sectors.





Injuries to Minors

The Department of Workers' Claims has information sharing agreements with various state and federal agencies, working in a collaborative effort to heighten overall efficiency.

This past fiscal year, the Department's Information and Research Division expanded this collaboration by providing the Labor Cabinet with detailed monthly data on all reported lost time injuries to workers under 18 years of age. Used as a tool in investigative efforts, these reports have prompted the assignment of 38 directed inspections resulting in more than \$3,000 in fines levied.

According to the U.S. Department of Labor's Current Population Survey, there were 86,000 workers in Kentucky between the ages of 16

and 19 in 2001. Between July 2001 and June 2002, there were 312 lost time injuries to workers under the age of 18 reported to Kentucky's Department of Workers' Claims.

Based on data transmitted to the department, there were 13 injuries to workers age 14 or under, 13 injuries to 15-year olds, 95 injuries to 16-year olds and 191 injuries to 17 year olds.

Nationwide, about 35% of all teen workers are in the retail trade sector (which includes fast food restaurants) and about 27% are in the services classification. Kentucky's teenage workers mirror these percentages. Based on the standard industrial classification codes on reported injuries to minors in FY 2001-02, 191 injuries occurred in the retail trade sector while 61 injuries were reported from the services sector. Between these two categories, eating/drinking establishments reported 146 injuries; almost *half* of all injuries.

Kitchens were the most dangerous of work places in FY 2001-02 for Kentucky's teens. There were 72 reported falls as these workers slipped on wet floors in restaurants and 22 workers were injured as a result of accidents involving fryers, vats, steamers and boiling water.

Sprains and strains were reported by 55 of those injured, cuts/lacerations were reported by 21 and 21 workers reported bruises/contusions. In instances which reported total lost days because of these injuries, time off from work averaged nine days.

The second highest number of injuries to minors within retail trade occurred in grocery stores. There were 44 reported injuries. 12 workers reported strains that resulted while stocking shelves or bagging groceries; six workers suffered falls and six workers reported cuts. In instances which reported total lost days because of these injuries, time off from work averaged three days.

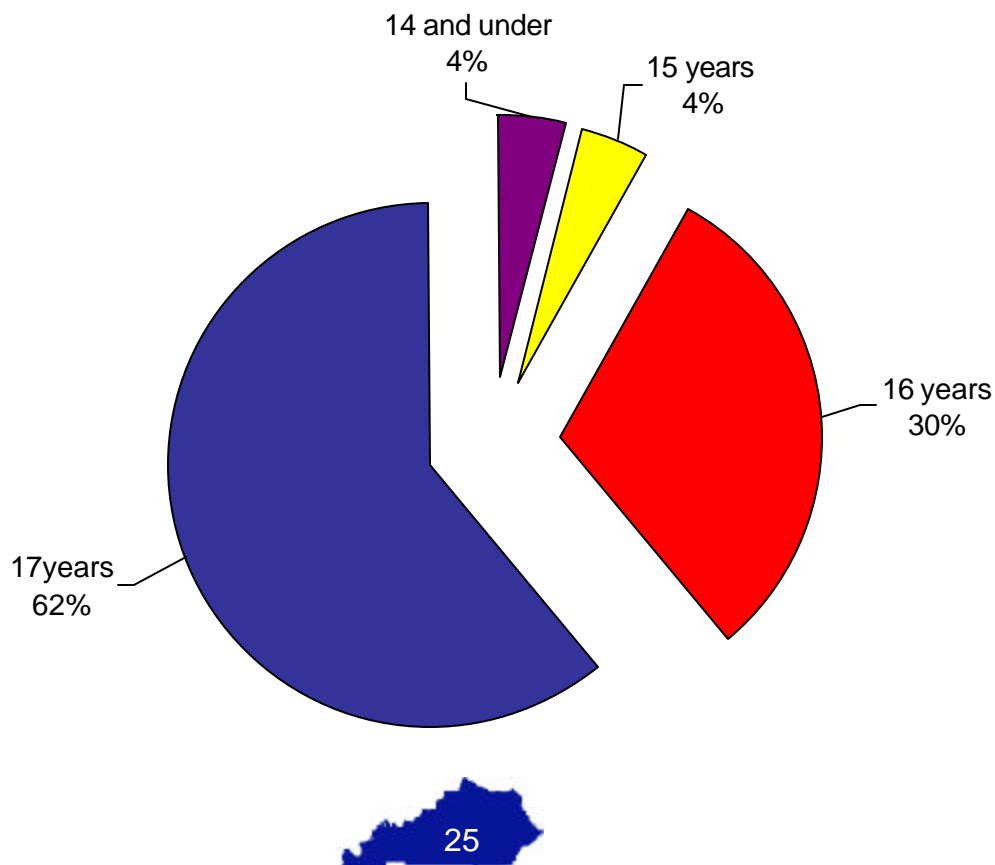
Approximately one-third of the 61 injuries to minors reported from the services sector involved injuries to health care workers. These 20 workers suffered primarily from strains received while lifting and/or moving patients/residents. In instances which reported total lost days because of these injuries, time off from work for these 16 and 17-year-olds averaged ten days.

There were 19 injuries to minors reported by the manufacturing industry, with sprains and strains leading as the nature of injury (6). In instances which reported total lost days because of these injuries, time off from work for these teens ranged from three to seven days. The construction industry reported 10 injuries to workers under the age of 18, with lacerations the most common nature of injury (4). Time off from work averaged 3.8 days.

The accompanying chart shows the distribution of injuries by all standard industrial classification codes.

Based on data transmitted, the top three causes of all 312 injuries were *falling or slipping* (101), *strains* (64) and *cut/puncture* (31). Accordingly, the top three body parts most injured were *lower back* (44), *knee* (41) and *fingers* (32). *Multiple body parts* also were affected in 32 injuries to teen workers.

Distribution of Injuries to Minors by Age



Program Performance



The Department of Workers' Claims strives to deliver expedient and efficient services to the constituency.

Through technological advances and an attitude of working smarter, the Department of Workers' Claims is dedicated to meeting the unique challenges of Kentucky's workers' compensation program environment.

Approximately 50% of DWC's personnel are involved solely in the processing of benefit claims. Roughly 25% of the staff are involved in constituent services, vocational rehabilitation services, insurance compliance, legal services and administration. The remaining staff is assigned to data entry and other computer related service.

Fiscal Performance



The Department of Workers' Claims receives 100% of its funding from a special fund assessment imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers and against the simulated premium of every employer carrying its own risk.

Initially established in 1987, this assessment was divided into two parts; one rate for *all* employers and an additional assessment rate for those employers engaged in the severance and processing of coal.

The "all employer" assessment rate was set at 23.3% in 1987 and has experienced periodic declines over the past 15 years. After several years of remaining at 9%, the Kentucky Workers' Compensation Funding Commission increased the rate to 11.5% for policies written on or after January 1, 2002. The additional "coal employer only" assessment rate, initially set at 40%, was abolished on December 12, 1996 with the passage of House Bill 1.

Current funding is derived solely from the remaining "all employer" assessment of 9% effective for premiums written on or after January 1, 2002. Any changes to the assessment rate must be recommended to the General Assembly not later than October 31 of the year prior to each regular legislative session.

DWC FISCAL HISTORY

FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT (\$)	ACTUAL EXPENDITURES (\$)	DIFFERENCE (\$)	PERCENT of BUDGET EXPENDED
2001-2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%
2000-2001	242	208	14,942,300	12,716,927	(2,258,373)	85.1%
1999-2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%
1998-1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%
1997-1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%
1996-1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%
1995-1996	207	138	9,822,200	9,479,970	(342,230)	96.5%
1994-1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%
1993-1994	167	159	7,860,000	7,337,688	(522,312)	93.4%
1992-1993	167	160	7,505,100	7,004,561	(500,539)	93.0%
1991-1992	153	150	6,901,600	6,497,815	(403,785)	94.0%
1990-1991	155	149	6,737,300	6,487,540	(249,760)	96.0%
1989-1990	139	136	5,695,100	5,295,835	(399,265)	93.0%
1988-1989	132	123	6,031,200	4,951,309	(1,079,891)	82.0%

Workers' Compensation Board



Dwight T. Lovan, Chairman

Board chairman Dwight T. Lovan received his Bachelor's degree from Baylor University and J.D. from the University of Kentucky College of Law. Admitted to the Kentucky Bar in 1977, Judge Lovan worked as a staff attorney for the Kentucky Court of Appeals with responsibility for workers' compensation appeals for 15 months. From 1979 to 1990, he practiced law in Owensboro, concentrating in the areas of workers' compensation and civil litigation.



John Anthony Gardner

Board member John A. Gardner graduated from Western Kentucky University in 1971 and received his J.D. from the University of Kentucky in 1974.

Judge Gardner served on the district court bench for the 24th Judicial District from 1979-1991 and again from January 2000 to June 2000. He was elected to the Kentucky Court of Appeals in 1991 and served an eight-year term. In July of 2000, Judge Gardner was appointed to the Workers' Compensation Board.



Jonathan Stanley

Board member Jonathan Stanley received his Bachelor of Arts degree from Morehead State University in 1978 and a Masters Degree in international economics and political science from the University of Kentucky in 1979. He received his J.D. from the University of Kentucky College of Law in 1982.

While in law school, Judge Stanley worked as a law clerk for the Special Fund. From 1983 - 1997, he was a partner in the firm of Wilson and Stanley in Lexington. Judge Stanley was appointed to the Kentucky Workers' Compensation Board in 1999.

Administrative Law Judges



Sheila C. Lowther
Chief Administrative
Law Judge

During the past fiscal year, the Administrative Law Judges conducted 5,450 benefit review conferences and 2,560 hearings. They issued 1,854 opinions, including 124 remand opinions. The Administrative Law Judges are required to make findings of fact and rulings of law in these claims. The decisions issued by the Administrative Law Judges are subject to appeals to the Workers' Compensation Board, the Court of Appeals and the Supreme Court.

In addition to the routine duties associated with adjudicating the claims filed with the Department of Workers' Claims, the Administrative Law Judges presided at the Frankfort Motion docket, which is conducted twice a week. During the past fiscal year, the judges also assisted in drafting regulations and spoke at numerous continuing legal education programs. They were involved in preparing the practice regulations and forms necessary to implement the new black lung statute contained in H.B. 348, and performed other duties necessary to expedite the swift and efficient resolution of disputes arising from workers' compensation claims.

During this fiscal year, John B. Coleman of Pikeville, J. Landon Overfield of Henderson, Irene Steen of Richmond and Donna H. Terry of Lexington were reappointed to four year terms by Governor Patton and confirmed by the Senate.

Also, during this fiscal year, two new Administrative Law Judges were appointed to fill vacant positions. In October 2001, Bonnie C. Kittinger of Lexington and Richard Joiner of Madisonville were appointed to terms which expire in July 2004.

In January 2002, two additional Judges were appointed to fill vacant positions created by the retirement of Richard H. Campbell and Ronald W. May. Both Judge Campbell and Judge May were originally appointed to serve as Administrative Law Judges on May 1, 1988. R. Scott Borders of Florence and Lawrence F. Smith of Radcliff were appointed to fill these unexpired terms that end December 31, 2003.

In December 2001, the Workers' Compensation community was saddened by the sudden loss of Thomas A. Nanney of Fulton. Judge Nanney, had served as an Administrative Law Judge since May 1, 1988, died on December 18, 2001.



Distribution of Claims Filed by Hearing Location

Ashland	274	Louisville	1,385
Bowling Green	210	Madisonville	189
Covington	311	Owensboro	191
Hazard	558	Paducah	222
Lexington	836	Pikeville	1,129
London	498	Pineville	316

Office of General Counsel



Rex Hunt
General Counsel

The Office of General Counsel provides legal services to the Department of Workers' Claims, representing the Department in the courts and before administrative agencies. Essential duties include assistance to the Enforcement Branch in assuring compliance with workers' compensation laws through the imposition of injunctions and fines against non-compliant employers and others.

Additionally, reviewing liens to be filed against assets of uninsured employers, reviewing open records requests, providing advice concerning personnel matters and proposed disciplinary actions are some of the legal services rendered. Reviewing coal partnership agreements, assisting in drafting proposed legislation and regulations and lending assistance to the Department of Insurance and others with regard to investigations and prosecution of compensation fraud cases are other examples of the legal services made available. Also, legal staff of the Office of General Counsel preside over show cause hearings in the absence of the Commissioner.

The office received 261 citation cases, 54 unfair claims settlement practice cases and 19 new fraud cases during the past fiscal year. The Department filed restraining orders and collection actions in circuit court, held formal hearings and show cause hearings before administrative law judges and drafted settlement proposals with regard to the above cases. As a result of this past fiscal year's activity, the General Counsel's Office has collected \$190,722 in fines and penalties.

The office has also represented the Department (specifically the Coverage and Compliance Division) with regard to self-insurance legal issues and/or bankruptcy proceedings.

Activity of the Office of General Counsel included review of legislation and the drafting of impact statements in response to proposed legislation. The office has been involved with other divisions in reviewing House Bill 348 and in determining the impact upon the Department of Workers' Claims. In response to House Bill 348, the office has drafted administrative regulations such as 803 KAR 25:009E, which deals with adjustments of procedures for coal workers' pneumoconiosis claims and 803 KAR 25:120E, which deals with claimants who receive retraining incentive benefits.

In addition, the Office of General Counsel has promulgated emergency amendments to 803 KAR 25:010 to implement money-saving procedures for the adjustment of claims and to clarify existing procedures as well as expedite claims.

SUMMARY OF 2001 SIGNIFICANT WORKERS' COMPENSATION CASES

Desa International v. Barlow, Ky., 59 S.W.3d 872

If an employer routinely works an employee only part of the year before laying the employee off, the employee is considered a seasonal employee, and the average weekly wage is calculated for a seasonal employee pursuant to KRS 342.140(2).

Haddock v. Hopkinsville Coating Corp., 62 S.W.3d 387

The 1996 law requires an AMA impairment to find permanent partial disability. However, the legislature did not change the standard to award rehabilitation benefits which requires only a factual finding that the affected worker is unable to perform work for which he has previous training or experience.

Lawson v. Wal-Mart Stores, Inc., Ky.App., 56 S.W.3d 417

Once the statute of limitations has run, a claim is forever barred and not revived by TTD benefits being voluntarily paid by the employer.

Hill v. Sextet Mining Corp., Ky., 65 S.W.3d 503

A claimant was not expected to have self-diagnosed the cause of the harmful change to his spine and not required to give notice of a work-related gradual injury to his spine until he was informed of that fact. A harmful change, pursuant to KRS 342.730(1)(a), must warrant an AMA impairment and the worker must have a complete and permanent inability to work due to work-related harmful change.

Staples, Inc. v. Konvelski, Ky., 56 S.W.3d 412

The definition of injury in KRS 342.0011(1) requires that there be objective medical findings of a harmful change for a work-related injury to be compensable but does not require causation to be proven by objective medical findings.

Coleman v. Emily Enterprises, Inc., Ky., 58 S.W.3d 459

The Supreme Court found there was substantial evidence that the claimant's anxiety and depression were due to the work-related back injury and, therefore, resulted from a physically traumatic accident at work. The Court found that the Legislature's intent was to require that a mental injury be direct and, therefore, proximately caused by physical rather than mental trauma.

Commonwealth of Kentucky, Transportation Cabinet vs. Guffey, Ky., 42 SW3d 618 (2001) and McNutt Construction Co. vs. Scott, Ky., 40 SW3d 854 (2001)

Although KRS 342.0011(1) clearly indicates the affects of the natural aging process are not an injury, it indicates trauma “which is the proximate cause producing a harmful change in the human organism” is an injury. Where work-related trauma caused a dormant degenerative condition to become disabling and to result in a functional impairment, it proximately caused the harmful change, and the harmful change comes within the definition of injury.

NOTE: Along with Staples vs. Konvelski, Ky., 56 SW3d 412 (2001), Gibbs vs. Premiere Scale Co., Ky., 50 SW3d 754 (2001) should be included.

City of Louisville vs. Slack, Ky., 39 SW3d 809 (2001)

The right to de novo review provided by KRS 342.270(1) is part of the process for determining the value of a claim, and the indiscriminate imposition of attorney fees mandated by the December 12, 1996 amendment to KRS 342.320(2)(c) results in an unequal operation of the procedure. The provision, therefore, violates the employer’s right to procedural due process when appealing the decision of an Arbitrator. Inasmuch as KRS 342.310 provides a means for sanctioning an employer who takes a bad faith appeal from a decision of an Arbitrator, KRS 342.320(2)(c) is arbitrary because it punishes an employer for taking an unsuccessful but good faith appeal. Although this provision no longer exists in the statute, the significance is the court finding any provision of the Kentucky Workers’ Compensation Act unconstitutional.

McCool vs. Martin Nursery & Landscaping, Ky., 43 SW3d 256 (2001)

When applied to a claim that arose before December 12, 1996, the two-year waiting period of KRS 342.125(3) does not violate Article I, Section 10 of the United States Constitution or Sections 13, 19, and 242 of the Kentucky Constitution. It follows Brooks vs. University of Louisville Hospital, Ky., 33 SW3d 526 (2000) in rejecting the argument that applying the provisions to a claim that arose before December 12, 1996 impairs vested rights. The right to be compensable for a post-award change of occupational disability is not in existence until the worker sustains such a disability and, therefore, where an award is entered after December 12, 1996, a post-award change occurs after the amendment’s effective date.



Lexington-Fayette Urban Co. Gv't v. West, Ky., 52 S.W.3d 564 (2001)

If the first in a series of traumatic events involved physical trauma and that event is a direct and proximate cause of a harmful change in the human organism, the harmful change may be compensable. KRS 342.0011(1). Where a police officer suffered from post-traumatic stress disorder that originated with a 1989 incident in which she was physically assaulted by a knife-wielding suspect, and she became increasingly symptomatic following subsequent work-related incidents involving psychological trauma, the evidence compelled treating the claim as being for the effects of cumulative trauma. On remand, the ALJ must determine whether the 1989 incident constituted a “physical injury” for the purposes of KRS 342.0011(1) and, if so, whether the physical injury was a direct and proximate cause of the harmful change that was alleged.

McCowan v. Matsushita Appliance Co., (2001-SC-1046-WC), (rendered 10/17/02)

Effective December 12, 1996, KRS 342.0011(1) requires that a psychological, psychiatric or stress-related change in the human organism must directly result from a physical injury in order to be compensable. The legislature’s goal was to prevent compensation for all mental changes that result from mental stress or trauma (mental/mental claims), and there is no indication that it intended to preclude compensation for physical changes that result from mental stress or trauma (mental/physical claims). By including the term “stress-related”, the legislature sought to denote another type of mental condition. Thus, the last sentence of KRS 342.0011(1) applies only to mental changes and requires that such changes must directly result from a physically traumatic event in order to be compensable.

Gibbs v. Premier Scale Co., Ky., 50 S.W.3d 754 (2001)

A diagnosis of a harmful change, when based solely upon a worker’s self-reporting of symptoms but not supported by objective medical findings as defined by KRS 342.0011(33), is insufficient to prove an injury. The existence of a harmful change may be established, indirectly, through information gained by direct observation and testing applying objective or standardized methods that reveals symptoms of such a change. A diagnosis that is derived from symptoms that are confirmed by direct observation or testing applying objective or standardized methods may comply with KRS 342.0011(1).

McNutt Construction v. Scott, Ky., 40 S.W.3d 854 (2001)

Although KRS 342.0011(1) clearly indicates that the effects of the natural aging process are not an injury, it indicates that trauma “which is the proximate cause producing a harmful change in the human organism” is an injury. Where work-related trauma causes a dormant degenerative condition to become disabling and to result in a functional impairment, the trauma has proximately caused the harmful change and the harmful change comes within the definition of injury.

Adkins v. R & S Body Co., Ky., 58 S.W.3d 428 (2001)

The formula set forth in the 1996 version of KRS 342.730 (1)(b) and (c) does not employ the worker’s AMA impairment rating rather than occupational disability as a basis for awarding income benefits. Although the impairment rating is a factor in determining the amount of income benefits, it is but one of three factors. The statutory multiplier weights the formula to favor workers who are

more severely impaired, and the formula takes into account not only the worker's physical capacity to return to the pre-injury employment but also whether a worker who returns to work has suffered a loss of income. Although the formula may imperfectly measure an individual worker's loss, it cannot be said that it bears no rational relationship to the purpose of the income benefit or that it denies injured workers a remedy. It does not violate Section 14 of the Kentucky Constitution or the jural rights doctrine.

Stewart v. Kiah Creek Mining, Ky., 42 S.W.3d 614 (2001)

The plain language of KRS 342.730(1)(d) does not affect the method for calculating the amount of benefits payable to a partially disabled worker who does not retain the physical capacity to return to the type of work that was performed at the time of the injury. It limits the benefit to a maximum of the weekly benefit for total disability. The opinion contains a formula for calculating a benefit under KRS 342.730(1)(b),(c), and (d).

Knott Co. Nursing Home v. Wallen, Ky., 74 S.W.3d 706 (2002)

Although KRS 342.730(1)(b) requires the use of an AMA impairment rating to calculate a worker's disability rating, it does not preclude a partial disability award for a mental injury. The Fourth Edition of the AMA Guides do not provide for percentage impairments for mental injuries, but it clearly recognizes that such injuries can impair an individual's ability to work. Therefore, where a mental injury is at issue, an ALJ is authorized to translate a Class 1 through 5 AMA impairment into a percentage impairment for the purpose of determining the worker's disability rating and calculating the income benefit.



Brooks v. Univ. of Louisville Hospital, Ky., 33 S.W.3d 526 (2000)

The two-year waiting period and four-year limitation on reopening are statutes of limitation which may be enlarged or restricted without impairing vested rights. Although the claimant's injury occurred before December 12, 1996, her award was entered after that date; therefore, applying the amended version of KRS 342.125 to a motion alleging a post-award increase of occupational disability did not affect a right that vested before the amendment's effective date. KRS 342.125(3) permits neither a worker nor employer to reopen within two years of an award upon an allegation that a change in the worker's medical condition caused a change of occupational disability and does not violate Ky. Const S 59(24).



**Slone v. R & S Mining Corp., Ky.,
74 S.W.3d 259 (2002)**

Although pneumoconiosis is an irreversible and progressive disease, there is no indication that simple pneumoconiosis will progress after exposure to coal dust ceases. A worker who sustains no additional exposure after his claim is dismissed on the merits is precluded from filing another pneumoconiosis claim against the employer because the extent of any injury that resulted from his exposure was finally decided in the initial proceeding. KRS 342.125(1) gives some relief from the principles of the finality of judgments only if the decision resulted from fraud or mistake or if the worker obtains evidence that could not have been discovered with the exercise of due diligence in the initial proceeding. Evidence of a change of medical

condition, by itself, would not support reopening. There must also be proof that the change comes within the scope of the “mistake” provision.

Big Elk Creek Coal Co. v. Miller, Ky 47 S.W.3d 330 (2001)

KRS 342.125(2)(a) requires a prima facie showing of both a progression of pneumoconiosis and the development or progression of respiratory impairment in order to reopen a RIB. Having made the necessary prima facie showing, the claimant is required to prove a respiratory impairment regardless of the subsection of KRS 342.732 through which income benefits were sought. Where benefits are sought under KRS 342.732(1)(d), the extent of respiratory impairment is governed by *Campbell v. Universal Mines, Ky.*, 965 S.W.2d 623 (1998), and equates to pulmonary function that is less than the predicted normal.

Whittaker v. Hurst, Ky., 39 S.W.3d 819 (2001)

A worker who seeks to reopen an award of income benefits for pneumoconiosis is required to offer prima facie evidence of a progression of respiratory impairment and is not required to offer such evidence of a progression of the disease. KRS 342.125(2)(a).

McDowell v. Jackson Energy RECC, (2000-SC-0218-WC), (final 9/12/02)

The 1996 amendment to KRS 342.730(4), which terminates income benefits upon the recipient’s qualification for old-age social security, is not an unconstitutional violation of due process or equal protection.

Claims Processing and Appeals

The Division of Claims Processing and Appeals is comprised of the Claims Branch and the Appeals Branch. This Division's primary responsibilities include receiving and processing applications for resolution of claims, assigning claims to the administrative law judges, preparation of the Frankfort motion docket, and processing appeals to the Workers' Compensation Board, Court of Appeals and Supreme Court.

The Claims Branch consists of four sections: Claims Assignment, Docket, Case Files and Open Records. Applications for resolution of injury, occupational disease, and hearing loss claims are received, processed and assigned to the administrative law judges. In addition to claims processing, the Claims Assignment Section schedules court reporter services and Benefit Review Conferences for the judges.



The Kentucky Workers' Compensation Act provides for appeal of decisions from the Workers' Compensation Board to the Kentucky Court of Appeals and ultimately to the Supreme Court. The Appeals Branch processes those appealed claims for filing to the appropriate appellate level. During fiscal year 2001-02, the Appeals Branch processed approximately 889 appeals to various levels in the appeals process.

The Claims Processing Division consists of the Claims Assignment Section, Docket Section, Case Files Section, and Open Records Section.

The **Claims Assignment Section** receives and processes all new applications for resolution of claim and reopenings from the Frankfort motion docket. They schedule the Benefit Review Conferences and assign the claims and reopenings to the Administrative Law Judges. For the fiscal year 2001 - 2002, 4,967 new claims were processed and 4,007 new claims and 208 reopenings were assigned to the Administrative Law Judges for Benefit Review Conferences. On a regular basis, the section provides information and assistance to claimants, employers, attorneys, court reporters and insurance carriers concerning claim status and various issues.

The **Case Files Section** receives and processes motions to reopen, attorney fee motions, requests for widow's benefits and miscellaneous motions in cases that have not been assigned to the law judges, and prepares them for assignment to the Docket Section at the appropriate time. During this fiscal year, it received and processed a combined total of

4,131 motions. The section processes documents and mail in cases that have been assigned to the law judges and forwards to the appropriate judge. The section audits the files that are returned to the Department by the law judges after final decisions have been rendered and the appeal time has expired. On a regular basis, it responds to inquiries from claimants, employers, attorneys and insurance carriers concerning claim status and various issues.

The **Docket Section** specialist prepares motions in cases that have not been assigned to a law judge and places them on the Frankfort motion docket for a ruling by the Chief Administrative Law Judge. The docket specialist attends the docket meetings to record the rulings of the Chief Administrative Law Judge. The specialist and the secretary complete and process the orders. During this fiscal year, 2,867 motions were assigned to the Frankfort docket.

The **Open Records Section** responds to open records requests for information contained in the departmental file system. The requests must be submitted in writing. The requests are received from attorneys, insurance carriers, employers, the Social Security Administration and the general public. Documents/materials are certified upon request. The section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals who apply for free Hunting and Fishing Licenses. The section staff prepares the billing invoices for copy charges and mails to the copy recipients. They verify and process receipt of payments for it. For this fiscal year, the section processed 13,764 written requests, 195 requests from the Social Security Administration, 13,100 pre-employment requests and 219 requests from the Department of Fish and Wildlife. It collected \$63,919 for copy charges for the fiscal year.



Information and Research

Primary duties of this Division, led by Director Deborah S. Wingate, are collection, storage and retrieval of data and dissemination of information. The Records Branch is responsible for data entry, coding and ensuring the validity and integrity of the data. The Technical Services Branch renders both hardware and software services and is responsible for the development and maintenance of DWC's data systems, including the wide area network.

Through the Benchmarking Section of the Records Branch, the Information and Research Division performs critical research and publication functions. These include annual and quarterly reports, Workers' Compensation Guidebook, etc.



Through Benchmarking's report card process, insurance carrier performance is monitored, including the timely filing of first reports of injury and fatalities. This section also responds to requests for program information from legislators, government agencies and the public.

Technical Services Branch

The staff of the Technical Services Branch has had a year filled with planning, preparation and implementation, working simultaneously on several major projects.

In addition to ongoing maintenance of the Department's web site, Technical Services staff implemented programming changes in order to meet federal accessibility requirements. The web site of the Department of Workers' Claims is now fully compliant with the provisions of the Americans with Disabilities Act.

In preparing for the Department's data conversion from an AS400 system to a server based environment, Technical Services studied the hardware and application needs to develop and design applications that coincide with SSIMBA (Systems Server Information Management Business Applications), which is the data system that will soon serve the Department of Workers' Claims.

Because of the impending departure from the AS400 system, additional hardware and software applications were required. Purchase of a new scanning and imaging system was necessary for compatibility reasons. While millions of images and records are in the conversion process, Technical Services staff upgraded scanning/capture PC's and installed the compatible hardware for testing purposes. FileNet Image is currently in use by DWC staff and once the AS400 conversion process is complete, FileNet Image will serve as the department's scanning and imaging system.

Also as a result of converting DWC's data to a browser-based system, the Technical Services staff began development of a Visual Basic Electronic Data Interchange application. Staff also converted CompLaw data files to an HTML format. This process involved converting more than a decade of archived Board opinions to a browser-based system with high-end search abilities.

The physical relocation of the Frankfort offices of the Department of Workers' Claims involved a significant commitment of resources from the Technical Services branch.

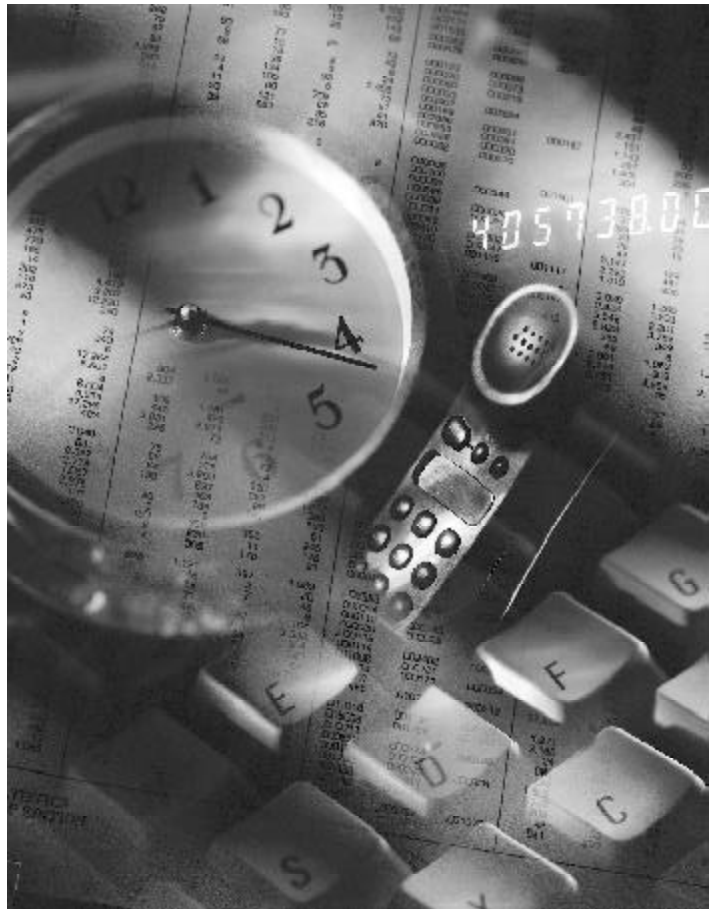
Months before the actual move, staff members were involved in the layout of space for network hardware and the installation of network cabling. From diagramming the placement of the necessary hardware and overseeing the wiring contractors, to physically locating and relocating PC's and monitors, the Technical Services staff devoted many hours to this project.



Benchmarking Section

The Division of Information and Research responds to requests for information under Kentucky's Open Records Law. Within this division is the Benchmarking staff, which conducts multifaceted, specialized industry and injury research by collecting, reviewing and comparing data relevant to workers' compensation issues and Kentucky's Department of Workers' Claims.

Data collected from First Reports of Injury, Subsequent Reports of Injury and various other DWC databases provides the statistical reports and analysis compiled by the Benchmarking staff. Quarterly activity reports and DWC's annual report to the Governor are examples of the research, analysis and compilation duties of the Benchmarking staff. Value added research efforts extend to monitoring and evaluating program performance.



Research conducted by Benchmarking staff is also generated by requests from other agencies. Attorneys, government agencies, health care representatives, the media and others submit data requests. Research results are used in a variety of ways: to assist in claim filings, to prepare for safety training programs and to update state and national data banks as well.

Benchmarking staff spent a considerable amount of time collecting and analyzing the facts, figures, statistics and projections requested by members of the 2002 General Assembly. House Bill 348 proposed changes in the medical protocols used to diagnose coal workers' pneumoconiosis (black lung disease). Revisions of eligibility criteria required the research staff to collect and compare data on x-ray B Readers, CT scans and pulmonary function tests. Costs of various diagnostic methods and tools were included in the

research and projections that were provided. Comparisons were made with other 'mining' states, as well as neighboring states, to learn of their medical protocols and standards used in the determination of workers' compensation claims, specifically those involving coal workers' pneumoconiosis.

SCR7 was a concurrent resolution establishing a task force on cumulative trauma and repetitive stress disorders. The Department of Workers' Claims was requested by the Senate Leadership Office to provide information on repetitive stress injuries for the past 10 years.

In response to the filing of House Bill 104, the Benchmarking staff conducted research on firefighter injuries and diseases. HB 104 established a presumption that heart or lung disease in a firefighter was occupationally related if the employee had worked as a fire fighter for five or more years.

Security and Compliance

The Division of Security and Compliance, headed by Director Gary Davis, C.P.A., is responsible for ensuring that nonexempt Kentucky employers maintain workers' compensation insurance coverage. The Self-Insurance Branch audits group and individual self-insured employers and processes applications for self-insurance. The Coverage Branch maintains records documenting workers' compensation insurance coverage for Kentucky employers. The Enforcement Branch monitors Kentucky businesses to verify compliance with the Workers' Compensation Act.



Division of Security and Compliance

Through the efforts of the Coverage, Self-Insurance and Enforcement Branches, the Division of Security and Compliance focuses its resources on ensuring that nonexempt Kentucky employers maintain workers' compensation insurance coverage.

Self Insurance

The Self-insurance Branch periodically audits each self-insured group fund and reviews the financial strength of the individual self-insured employers to determine the surety requirements necessary to secure the benefits of the self-insured employer's workforce.

In addition to reports submitted by the self-insured employers, Branch auditors utilize independent resources including regional and national newspapers, business periodicals, Internet business sites and Dun & Bradstreet services to monitor the financial condition of self-insurers.

During FY 2002, the Department finalized the examinations of AIK-Comp and Kentucky Association of Counties. Examination of the Kentucky League of Cities was performed and is close to being finalized.

The replacement of the Frontier Insurance Company surety bond for AEI Resources (now Horizon Natural Resources) consumed a significant amount of time. Verifying the known

and potential liability by the companies that AEI had purchased proved to be a complex project. Ultimately, the Department obtained \$16,000,000 in appropriate surety to replace the Frontier bond.

Given the tragic events of September 11th, compiled with the bankruptcies of Enron and K-Mart, and the economic downturn, the surety bond market has tightened. In some cases, carriers have cancelled the surety bonds utilized by self-insured employers to secure its workers compensation obligations. For those companies that have had their bond canceled, few have been successful in obtaining acceptable replacement surety. Dwindling capacity in the bond market forced several longtime self-insured employers to surrender their self-insured certificate and obtain coverage in the voluntary market. The Department anticipates additional cancellations in the near future forcing more self-insured employers to the voluntary market.

The lack of capacity in the bond market is also affecting a number of former self-insurers as they attempt to maintain the necessary surety. Numerous requests to reduce the amount of surety held by the Department relative to the obligations of these former self-insured employers were received during the fiscal year. In our continuing effort to calculate an adequate surety sufficient to cover the obligations incurred by former self-insured employers, the

Since fiscal year 1998, self-insurance has experienced a net reduction of 31 employers, bringing the FY 2001-02 total to 193 as noted below:

Fiscal Year	1998	1999	2000	2001	2002
Companies on Watch-list	13	9	5	6	4
Individual Self-Insurers	224	214	201	193	180
Self-Insured Groups	10	10	10	9	9



Department collaborated with Tillinghast-Towers Perrin to develop an analytical actuarial tool. This actuarial model provides benchmark outstanding liability estimates based on summary employer loss data and insurance industry benchmark data. These benchmark estimates are based on mechanical applications of general actuarial loss projection techniques.

While the vast majority of Kentucky self-insured employers are financially strong, self-insured employers experiencing financial stress are placed on a "Watch-List" and monitored on a quarterly basis. "Watch-List" membership continues the trend of being relatively low. It is worth noting that one of the companies that declared bankruptcy in FY 2002 was a former member of the "Watch-List". When the company's financial condition did not improve, they were decertified and forced to obtain coverage in the voluntary market. Two years after decertification, this employer declared bankruptcy.

There were six bankruptcies during FY 2002 and one additional company defaulted on payments outside of a bankruptcy proceeding. Five of the six bankruptcies were former self-insured companies. Regrettably, K-Mart filed bankruptcy while self-insured and defaulted on its workers' compensation obligations the same day it was decertified as a self-insured employer. The Department called the surety bond and transferred the proceeds to the Kentucky Individual Self-Insurance Guaranty Fund. That fund continued the payments to the injured workers with little or no interruption and continues to resolve the many issues that accompany the administration of claims associated with bankrupt employers. The other five employers filing for bankruptcy protection either continued to make payments, had no open claims or the bonding company continued

payments. This compares to five bankruptcies in FY 2001 and four in FY 2000.

In concert with the physical relocation of the Division of Security & Compliance, the branch prepared documents for archiving and imaging as well as working with GOT on the computer redesign. The redesign of the computer system required a number of meetings with GOT staff to document workflow of the Branch. We look forward to the enhancements and timesaving attributes that will accompany utilization of this new technology.

SERF

Indemnity payments to the injured workers of formerly self-insured South East Coal continue in accordance with the plan adopted in 1996. After the initial distribution of past due benefits, investment of the remaining allocated funds may provide the means to fully indemnify the claimants until 2028. Although the recent decline in the stock market has adversely affected the fund balance, the investment strategy has, as a priority, the protection of the funds for the sole purpose of wage replacement to the former employees of South East Coal.

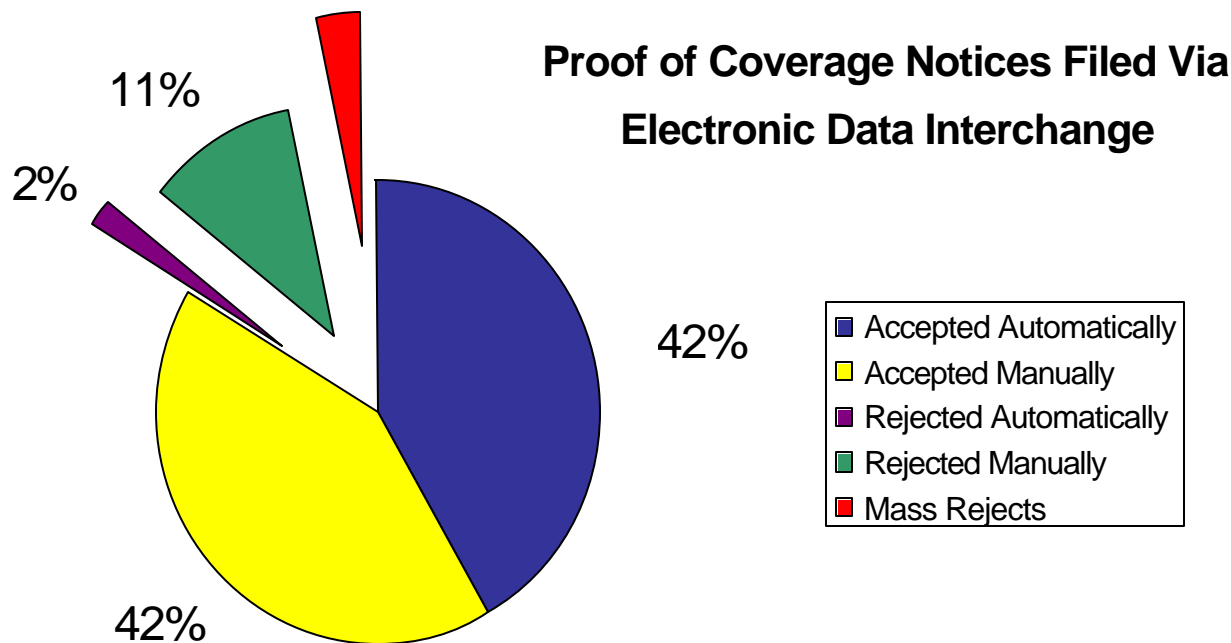
COVERAGE BRANCH

The **Coverage Branch** maintains proof of coverage information received from every carrier, self-insured group fund, and every employer authorized to carry its own liability on its employees covered by the workers' compensation act. This information is submitted by carriers and self-insurers to the Coverage Branch through Electronic Data Interchange (EDI) and maintained in a master coverage database eliminating the receipt of paper forms. An estimated 194 insurance companies, including the competitive state fund Kentucky Employers Mutual Insurance Company (KEMI), insured the Commonwealth's employers this fiscal year.

The Coverage Branch, once operating with a maximum staff of thirteen (13) in 1997, currently maintains a staff of six full-time employees. This significant staff reduction was possible through

the use of EDI coupled with well-trained and dedicated employees.

Working with the three data reporters, Claimport (ISO), WorkComp Link and KEMI, the Coverage Branch process transactions either by computer matches or manual matches by employees. Certifications of coverage, monitoring of "Wrap-up" construction projects, registration of employee leasing organizations, and other special projects complete the responsibilities that are part of the normal day to day operations.



84% of transactions accepted into database



Employee's Written Notice of Rejection Filed With the Department of Workers' Claims

Fiscal Year	Rejection Notices
1997	10,439
1998	8,825
1999	7,237
2000	7,021
2001	6,742
2002	6,904

An analysis of the past forty-two (42) months reveals an increase in the number of investigations performed coupled with a decline in the number of citations issued and fines collected. While the DWC is cognizant of the propensity for a small segment of employers to operate without the required workers compensation coverage, we are pleased with the direction indicated by the above statistics and believe the declines in citations and collections are reflective of an increasingly successful enforcement/education effort.

Reviewing recent activity on a fiscal year basis, for 2001-2002, the officers conducted 11,173 investigations resulting in 461 citations against employers for failure to provide workers' compensation insurance. The number of employers cited for a coverage violation has decreased the last two fiscal years.

ENFORCEMENT BRANCH

The Enforcement Branch utilizes a team of compliance officers located throughout the Commonwealth who investigate the status of Kentucky employer's insurance coverage through on-site visits in an effort to encourage voluntary timely compliance with coverage requirements. The Frankfort staff consisting of a Branch Manager and four employees supports these officers and participates in various special assignments including the citation of employers operating in contradiction to the Workers' Compensation Act.

The branch also maintains a database of employees who have elected to waive their rights regarding the Workers' Compensation Act (Form 4s). As demonstrated from the chart below, the frequency with which rejections have been filed with the DWC over the past six (6) years has gradually decreased until it appears volatility has been replaced by relative consistency.

Investigation Analysis 1999-2002				
	CY 1999	CY 2000	CY 2001	CY 2002
Investigations	9,418	10,537	10,770	5,554
Citations	550	559	452	218
Collections	\$409,726	\$312,420	\$278,928	\$112,753

	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992
Premium Reported					
Self Insurance Groups			\$65,420,903	\$73,332,147	\$77,418,560
Self-Insured Employers			\$128,971,017	\$113,200,047	\$89,365,499
Insurance Carriers			\$372,513,650	\$502,032,570	\$417,715,989
* Total Premium Reported	\$197,501,665	\$434,993,235	\$566,905,570	\$688,564,764	\$584,500,048
Assessments Paid					
Self Insurance Groups			\$14,061,678	\$15,466,008	\$15,442,217
Self-Insured Employers			\$27,721,245	\$23,874,288	\$27,897,043
Self-Insured Employers - KYCWP					
Insurance Carriers			\$80,068,703	\$105,880,434	\$86,982,575
Insurance Carriers - KYCWP					
KY CWP - Per Ton Severed					
Transfer From Severance Tax Receipts					
* Total Assessments Collected	\$51,422,076	\$113,918,642	\$121,851,626	\$145,220,730	\$130,321,835
Total System Costs	\$248,923,741	\$548,911,877	\$688,757,196	\$833,785,494	\$714,821,883
% Change in Total System Costs		NA	25.48%	21.06%	-14.27%
** Total KY Wages & Salaries	\$26,441,000,000	\$28,128,000,000	\$29,922,000,000	\$31,427,000,000	\$33,598,000,000
Approximate System Cost/\$100 Payroll	\$0.94	\$1.95	\$2.30	\$2.65	\$2.13
% Change in Total System Costs			17.95%	15.26%	-19.81%
Adjusted for Payroll					

	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
Premium Reported					
Self Insurance Groups	\$225,287,624	\$209,560,948	\$105,033,376	\$69,693,446	\$75,059,379
Self-Insured Employers	\$161,746,830	\$210,430,884	\$193,974,184	\$159,942,601	\$148,416,695
Insurance Carriers	\$588,488,291	\$545,864,939	\$521,231,130	\$458,807,785	\$474,871,764
* Total Premium Reported	\$975,522,745	\$965,856,771	\$820,238,690	\$688,443,832	\$698,347,838
Assessments Paid					
Self Insurance Groups	\$21,666,461	\$18,973,156	\$9,426,972	\$6,198,710	\$6,721,807
Self-Insured Employers	\$30,545,405	\$31,191,367	\$17,459,099	\$14,492,164	\$13,366,363
Self-Insured Employers - KYCWP		\$1,041,568	\$1,462,138	\$476,504	\$328,660
Insurance Carriers	\$79,619,862	\$61,637,467	\$49,594,577	\$42,047,241	\$43,673,429
Insurance Carriers - KYCWP		\$560,215	\$1,201,243	\$684,677	\$142,985
KY CWP - Per Ton Severed		\$2,031,174	\$2,944,708	\$1,508,585	\$1,486,086
Transfer From Severance Tax Receipts		\$0	\$19,000,000	\$19,000,000	\$19,000,000
* Total Assessments Collected	\$131,831,728	\$115,434,947	\$101,088,737	\$84,407,881	\$84,719,330
Total System Costs	\$1,107,354,473	\$1,081,291,718	\$921,327,427	\$772,851,713	\$783,067,168
% Change in Total System Costs	10.30%	-2.35%	-14.79%	-16.12%	1.32%
** Total KY Wages & Salaries	\$41,395,000,000	\$44,241,000,000	\$46,876,000,000	\$49,967,000,000	\$53,104,000,000
Approximate System Cost/\$100 Payroll	\$2.68	\$2.44	\$1.97	\$1.55	\$1.47
% Change in Total System Costs	5.46%	-8.64%	-19.58%	-21.30%	-4.66%
Adjusted For Payroll					

Information Sources:

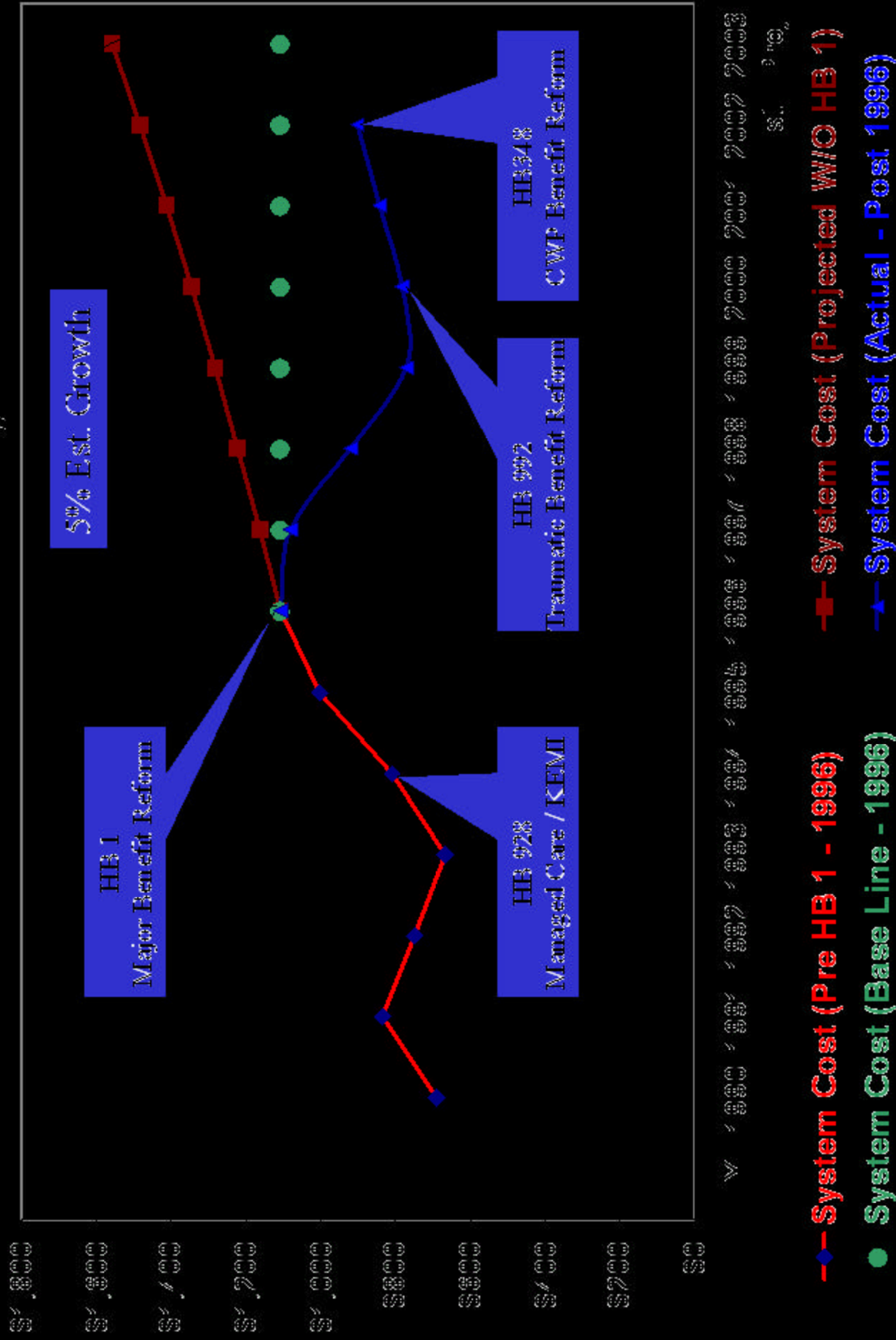
- * Kentucky Workers' Compensation Funding Commission
- * US Department of Commerce, Bureau of Economic Analysis with Ky Wage & Salary estimates per OFMEA
Decrease in Total System Costs FY 1996 thru FY 2002 (Voluntary and Self-Insured Premiums & Assessments) equals \$191,671,034

Explanatory Notes:

- 1: Reports of voluntary market underwriting activity coupled with Figure 64 data supports the contention that significant discounts are no longer offered in the voluntary market resulting in rates more closely aligned with loss costs and signaling potentially significant future increases in premium rates.
- 2: Decreases in the Self-Insured Employers simulated premiums for CY 1998 are due in part to the calculation which, with each new year, utilizes a more recent loss year and discards an older loss year giving emphasis to more recent safety related or system changes and to employer leaving self-insurance.
- 3: The decreases in the total reported premium for fiscal years 1992 and 1993 resulted from carrier utilization of deductible policies rather than a reduction in the manual premium. Deductible credits became part of the assessment base for Special Fund Assessments via Legislative action during the 1994 General Assembly effective retroactively to May 6, 1993.
- 4: FY 1988 included only 8 months of activities as House Bill 1, passed in 1987, became effective on 10/26/87. Therefore, the comparisons for change in systems costs begin with FY 1989 to FY 1990.
- 5: The increase in the Self-Insured Employers simulated premiums for FY 1997 is artificial

Security and Compliance

Cost W/O 'Cost' Cost W/ System Cost



Enforcement Statistics

1/1/1995 To 6/30/2002

■ **74,360 Investigations Conducted**

■ **3,016 Citations Issued**

■ **\$2 Million Collected**

A long-term analysis of the enforcement effort reflects the commitment and responsibility with which the DWC has approached this section of the workers compensation act. Since 1995 the Enforcement Branch has been an integral part of the overall workers compensation effort in Kentucky working to ensure the timely delivery of statutory benefits to injured workers. The table below demonstrates the high degree of success measured by investigations, citations and collections.

Guaranty Funds

The special legislative session in December 1996 culminated in the passage of HB 1 bringing sweeping changes to the workers' compensation landscape. One of the primary elements relative to self-insurance in the Commonwealth was the establishment of three guaranty associations. These funds were created to protect workers and their dependents in the event of insolvency of a self-insured. Though effective on March 1, 1997, neither of the funds were impacted by an insolvency. However, in December 1999 Fruit of the Loom (Union Underwear) filed for protection under Chapter 11 of the Bankruptcy Code and subsequently defaulted on its workers' compensation obligations. Since that initial insolvency, additional bankruptcies have required the participation by the guaranty funds to ensure payment of the workers' compensation obligations of self-insured employers. Both the Kentucky Individual Self-Insurance Guaranty Fund and the Kentucky Coal Employers Self-insurance Fund are administering claims from several insolvent self-insured employers. Only the Kentucky Group Self-Insurance Fund has been spared the responsibility of administering claims due to a bankruptcy of a member group.

The fiscal year 2001 – 2002 was especially challenging with high profile bankruptcies. Kmart filed for bankruptcy protection in 2002 and subsequently defaulted on its claims. The Kentucky Individual Self-Insurance Guaranty Fund is administering the claims and, along with the DWC, is taking appropriate steps to marshal all assets for the purpose of bringing them to bear in the effort to ensure payment of Kmart's workers' compensation obligations.



Constituent Services

The Division of Ombudsmen and Workers' Compensation Specialist Services maintains toll free telephone lines to assist citizens in workers' compensation matters by answering questions, providing information and attempting to resolve conflicts. Mediation services are available in an attempt to speed resolution of claims and expedite the delivery of benefits to injured workers.

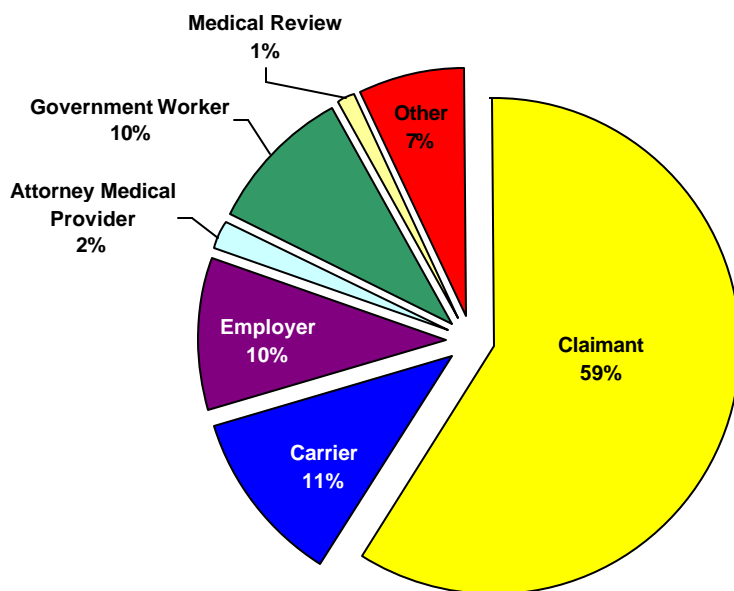
The Division is headed by the Honorable Cathy Costello, Division Director, with assistance from the Honorable John Mann, Chief Specialist.

Other sections of this Division include the medical cost containment and vocational rehabilitation sections. The medical cost containment section approves utilization review and managed care plans, maintains the hospital fee schedule and medical fee schedule for doctors. This section also schedules university and "b-reader" evaluations.



During FY 2001-2002, the Division of Ombudsmen and Workers' Compensation Specialist Services continued its proactive efforts to provide assistance and information, responding to 14,331 requests. Most of them were completed within one week of the initial contact.

Division of Ombudsmen and Workers' Compensation Specialists Distribution of Requests for Assistance by Source



The chart above represents the breakdown on the sources of requests. The listing below outlines the subject matter. The category 'Other' includes inquiries such as the attorney of record, the carrier/insurance agent, current mileage rate and miscellaneous questions of a general nature.

TOPICS	NUMBER OF CALLS
Rights and Procedures	8,428
Claims Status Request	2,105
Form Request	1,593
Other	1,201
Coverage	1,119
First Report of Injury	662
Medical Fee Schedule	396
Claim Filing Assistance	230
Referrals to Outside Agencies	129
Utilization Review	128
Medical Fee Dispute	123
Managed Care	86
Fraud	54
Vocational Rehabilitation	53
Unfair Claims Settlement Practice Investigation	40

Constituent Services

While specialists cannot represent claimants or appear with them at hearings, specialists assist injured workers who are not represented by an attorney in filing claim applications, and completing other forms.

In addition to providing information, ombudsmen and specialists intervened in various disputes between two or more parties within the workers' compensation system. In these interventions, DWC staff members assisted the parties to reach a resolution to the dispute by facilitating communication between the parties. Ombudsmen and specialists intervened in

2, 033 disputes this year, successfully resolving a majority of them.

Medical Fee Schedule

The medical fee schedule for physicians was created as required by KRS 342.035 and prescribed by 803 KAR 25:089. The current medical fee schedule was revised October 15, 2001 and became effective January 1, 2002 for all medical bills occurring on or after January 1, 2002.

The medical fee schedule is a cost containment mechanism, which limits the amount physicians can be paid for treatment or services as related to workers' compensation claims. The medical fee



schedule ensures that fees, charges and reimbursements for medical services are limited to charges that are fair, current and reasonable for similar treatment of injuries in the same community for like services. The fee schedule utilizes current procedural terminology codes.

The current adopted fee schedule was prepared by Milliman USA, Inc.

Managed Care

Managed care is governed by 803 KAR 25:110 and is intended to regulate costs by utilizing gate-keeper physicians, pre-certification of services, aggressive case management, and coordination of medical treatment and return-to-work policies.

There were 41 plans utilizing physicians from 17 networks in operation during FY 2001-2002. The majority of these plans operated statewide. The employees of the participating employers comprise approximately forty-six percent (46%) of the workforce.

Each plan is reviewed on a quarterly basis to ensure convenient geographical accessibility to all categories of licensed medical care. Reviews are based on the number of available physicians on a county-by-county basis.

Hospital Fee Schedule

The medical cost containment section also updates the hospital fee schedule on an annual basis. The hospital fee schedule became effective April 15, 2002. The schedule of fees for reimbursement of medical services provided by hospitals is calculated annually to determine each hospital's adjusted cost-to-charge ratio. This revision includes a twelve percent (12%) return to equity add on and appropriate adjustment for disproportionate share providers. There were 105 hospitals included on this list. A separate list is maintained on out-of-state hospitals and is calculated on an as needed basis.

Cost Containment Unit

Effective early in 2002 several medical programs were moved to the Medical Cost Containment Section, such as:

- Utilization Review
- Hospital Fee Schedule
- Medical Fee Schedule

Personnel in this unit will maintain these programs, as well as continue to maintain the current University Medical Evaluation and Managed Care program.

Utilization Review

Utilization Review is governed by 803 KAR 25:190 and is a review of the medical necessity and appropriateness of medical treatment and services. It was implemented to help control rising medical costs within workers' compensation medical services.

Workers' Compensation claims are automatically selected for review when they meet the following criteria:

- Upon a medical provider's request for pre-authorization;
- Upon notification of a surgical procedure or residence placement pursuant to 803 KAR 25:096 treatment plan;
- When total medical costs exceed \$3000; or when total lost work days exceed 30.



There were 70 Utilization Review and/or Medical Bill Audit plans approved during FY 2001-2002.

VOCATIONAL REHABILITATION

Eligible employees are entitled to the following benefits at the expense of their employers through the employer's workers' compensation insurance carrier:

1. Evaluation of vocational aptitudes, interests, and academic achievement levels.
2. Assistance in the selection of a vocational goal consistent with the injured employee's academic and physical abilities.
3. Payment of direct school expenses such as tuition, required fees, equipment, supplies and textbooks for a period of 52 weeks.
4. Additional periods of training may, after a hearing, be awarded by Administrative Law Judges on a case by case basis.
5. Reimbursement of class related travel expense. The current reimbursement rate is \$.32 per mile.
6. Room and board when appropriate.
7. Permanent total disability income benefits may be paid at a higher rate during retraining-

80% of the employee's average weekly wage at the time of injury instead of 66 2/3%, subject to the maximum allowed by law.

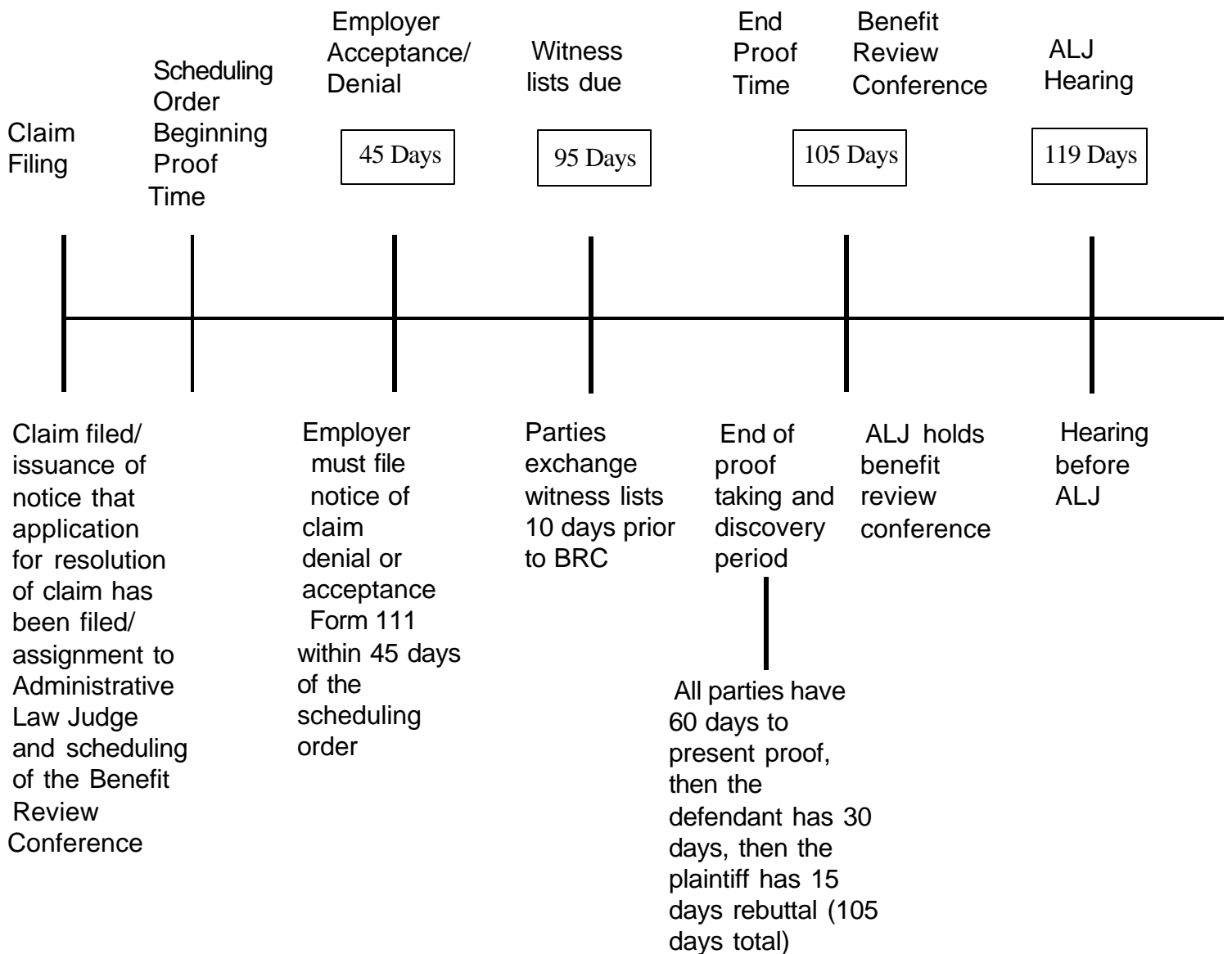
8. Permanent partial disability income benefits may be accelerated by advancing future benefits to provide an increase in weekly benefits during training.

Claimant's interests range from short term training of a few weeks to earn a Commercial Driver's License to long term training of several years to earn a college degree. In an effort to ensure injured employees are retrained for jobs compatible with their remaining physical abilities, they may be asked to obtain their doctor's approval for the specific program or job in which they are interested before their employers are asked to pay tuition and other educational expenses.

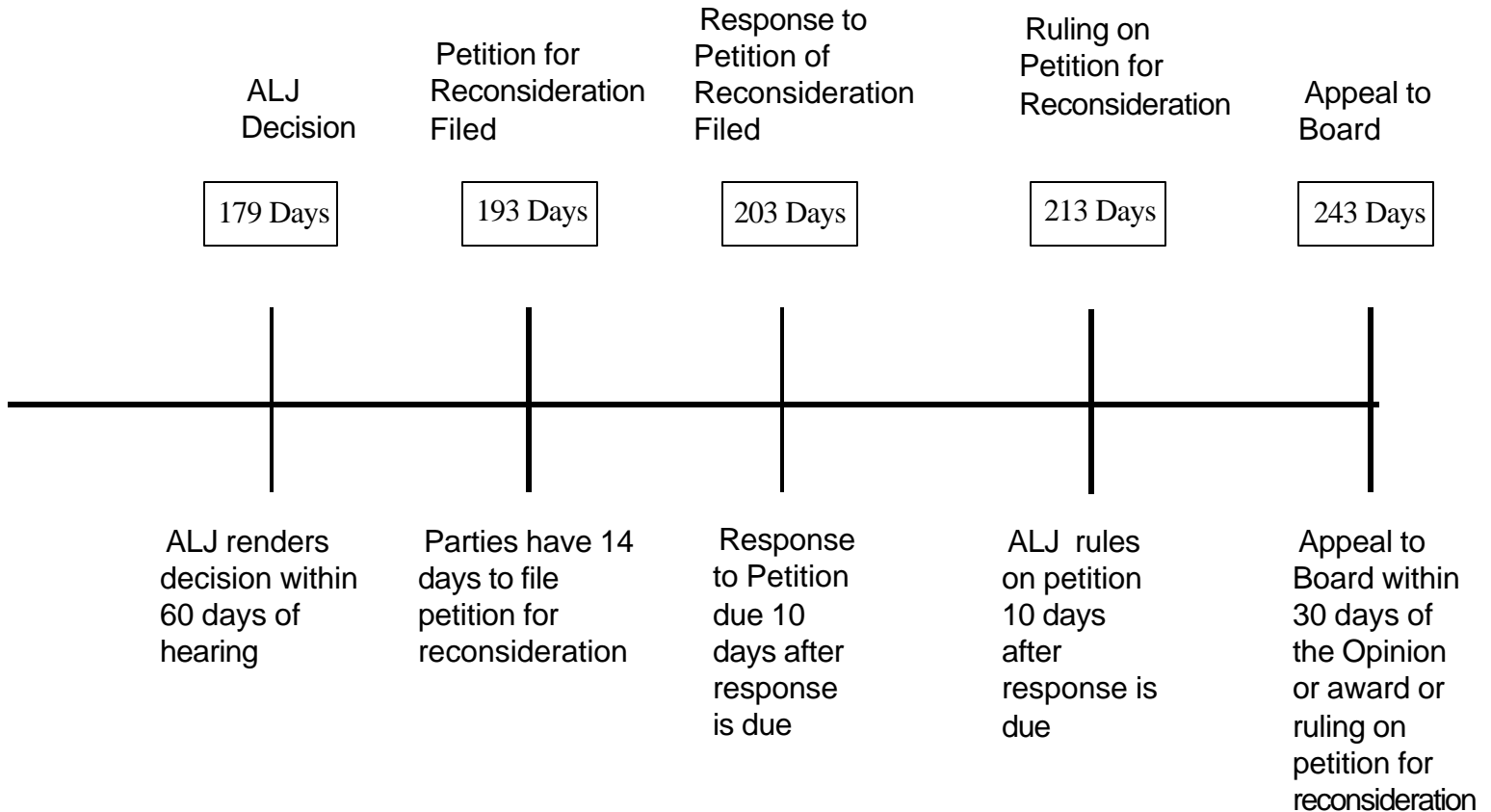
The following statistics are for casework activities during FY 2001-2002. The numbers in the first column refer to cases referred by ALJ's. The numbers in the "other" column refer to cases referred by sources other than ALJ's: attorneys, carriers, self-referrals, etc.

	<u>ALJ</u>	<u>OTHER</u>	<u>TOTAL</u>
<u>Carried over from 2000-2001:</u>	<u>178</u>	<u>45</u>	<u>223</u>
Referred during 2001-2002:	128	102	230
Total cases during 2001-2002:	306	147	453
Closed during 2001-2002:	139	66	205
Carried over into 2002-2003:	167	81	248
 Referred for vocational evaluations:	 107	 43	 150
Retraining requests submitted to carriers:	16	20	36
Retraining requests approved:	11	8	19
Started training during 2001-2002:	18	11	29
Completed training during 2001-2002:	15	7	22
Closed employed after retraining:	3	4	7
Cases in training status as of 6/30/02:	29	14	43

Kentucky Workers' Adjudication



Compensation Timeline



Key Personnel*

* at time of publication

Larry Greathouse, Commissioner	(502) 564-5550, Ext. 4421
Thomas Lewis, Deputy Commissioner	(502) 564-5550, Ext. 4412
Dwight Lovan, Chairman, Workers' Compensation Board	(270) 687-7339
Sheila Lowther, Chief Administrative Law Judge	(502) 564-5550, Ext. 4422
Rex Hunt, General Counsel	(502) 564-5550, Ext. 4498
Gary Davis, Director	(502) 564-5550, Ext. 4526
Division of Security & Compliance	
Beverly Goodwin, Coverage Branch Manager	(502) 564-5550, Ext. 4448
Steve Taluskie, Self-Insurance Branch Manager	(502) 564-5550, Ext. 4452
Barbara Rash, Enforcement Branch Manager	(502) 564-5550, Ext. 4450
	OR (800) 731-5241
Deborah Wingate, Director	(502) 564-5550, Ext. 4423
Division of Information & Research	
Research Specialists:	
Dawn Sullivan	(502) 564-5550, Ext. 4483
Scarlett Consalvi	(502) 564-5550, Ext. 4489
EDI Administrator	
Stephen Mason	(502) 564-5550, Ext. 4540
Webmaster:	
Greg Rice	(502) 564-5550, Ext. 4437
Cathy Costelle, Director	(502) 564-5550, Ext. 4559
Division of Ombudsmen and	
Workers' Compensation Specialist Services	
John Mann- Chief Specialist	(502) 564-5550, Ext. 4532
Ingrid Bowling - Managed Care	(502) 564-5550, Ext. 4449
Oscar Morgan - Vocational Rehabilitation	(502) 564-5550, Ext. 4544
Ora Burge, Director	(502) 564-5550, Ext. 4534
Division of Claims Processing	
Dianna Rose, Appeals Branch Manager	(502) 564-5550, Ext. 4467
Carol Stevens, Open Records Requests	(502) 564-5550, Ext. 4429

DWC Fax Numbers:

Commissioner's Office (502) 564-5934	Claims (502) 564-3792
Administrative Services (502) 564-8250	EDI/Research (502) 564-5741
Ombuds & WC Specialist (502) 564-9533	Security & Compliance (502) 564-0916
Open Records (502) 564-5732	WC Board Offices (859) 246-2779
Medical Schedulers (502) 564-5741	Vocational Rehabilitation (502) 564-9533